

Public Administration

The Journal of the Institute of Public Administration
Palace Chambers, Bridge Street, S.W.1

Vol. XIII—No. 2 **CONTENTS** *April, 1935*

	PAGE
THE CIVIL SERVANT AND THE ELECTED PERSON, by Miss Susan Lawrence	III
IN PRAISE OF DICEY, 1885-1935, by W. Ivor Jennings, M.A., LL.D.	123
SOME REFLECTIONS ON THE ADMINISTRATION OF A PUBLIC UTILITY UNDERTAKING, by Frank Pick	135
THE DEVELOPMENT OF LOCAL GOVERNMENT DURING THE PAST 50 YEARS, by Sir Montagu H. Cox, LL.B.	146
SOME NOTES ON THE FINANCING OF CAPITAL EXPENDITURE OF LOCAL AUTHORITIES, by J. Mitchell	153
A FEW THOUGHTS ON THE CONTROL OF A LARGE STAFF, by Lieut.-Colonel A. J. McCarraher, O.B.E... .. .	168
HOW SHALL WE TRAIN IN PUBLIC ADMINISTRATION? by Donald C. Stone	177

NOTES:

Recent Legal Decisions Affecting Public Administration, by F. A. Enever, M.A., LL.D.	189
--	-----

REVIEWS—See next page.

Contributions should be addressed to THE EDITOR, PUBLIC ADMINISTRATION, Palace Chambers, Bridge Street, Westminster, S.W.1.

Books for Review should be addressed to THE EDITOR.

LONDON: THE INSTITUTE OF PUBLIC ADMINISTRATION,
Palace Chambers, Bridge Street, Westminster, S.W.1.

All rights reserved.

Reviews

<i>Author of Book</i>	<i>Short Title</i>	<i>Author of Review</i>	<i>PAGE</i>
H. J. LASKI - - -	<i>The State in Theory and Practice</i>	J. L. Stocks - - -	189
INTERNATIONAL LABOUR OFFICE	<i>Studies on Industrial Relations</i>	J. Henry Richardson	191
GRAHAM WALLAS - -	<i>Social Judgment</i> - - -	I. G. G. - - -	195
Sir HERBERT SAMUEL -	<i>Practical Ethics</i> - - -	Z. L. P. - - -	196
HARVEY WALKER - -	<i>Training Public Employees in Great Britain</i>	H. N. B. - - -	199
U.S.A. COMMISSION -	<i>Better Government Personnel</i> - -	W. D. S. - - -	201

Book Notes

Theory and Practice

ELIE HALÉVY - - -	<i>The Growth of Philosophic Radicalism</i>	A. C. S. - - -	202
C. E. MERRIAM - - -	<i>The New Machiavelli</i> - - -	F. R. C. - - -	202
A. F. CHAPPELL - -	<i>Public Affairs</i> - - -	F. R. C. - - -	203
F. A. FILBY - - -	<i>History of Food Adulteration</i> - -	F. R. C. - - -	203
CARL MENGES - - -	<i>Collected Works of Carl Menges, Vols. I and II</i>	F. R. C. - - -	204
ADOLF DRESLER - -	<i>Geschichte der Italienischen Presse</i>	F. R. C. - - -	204
W. H. BRUFORD - -	<i>Germany in the XVIIIth Century</i>	A. C. S. - - -	205
U.S.A. OFFICIAL - -	<i>Report of the Commission on the Ad- ministration of Justice in New York</i>	N. V. R. - - -	206

The History of Towns

TERENCE S. SMYTH -	<i>The Civic History of the Town of Cavan</i>	} E. H. R. - - -	206
M. D. LOBEL - - -	<i>The Borough of Bury St. Edmunds</i> -		

The British Dominions' Economic Journals

ECONOMIC SOCIETY OF SOUTH AFRICA	<i>The South African Journal of Economics, Vol. II, No. 3</i>	J. K. - - -	208
Do.	<i>Do. Vol. II, No. 4</i>	J. K. - - -	209
JOURNAL OF THE ECON- OMIC SOCIETY OF AUSTRALIA AND NEW ZEALAND	<i>Economic Record</i> - - -	J. K. - - -	210

Miscellaneous

INTERNATIONAL LABOUR OFFICE	<i>Hours of Work in Postal Services</i>	W. D. S. - - -	211
SARAH GREER - - -	<i>A Bibliography of Civil Service and Personnel Administration</i>	W. D. S. - - -	211
EDITED BY LORD EUSTACE PERCY	<i>Year Book of Education, 1935</i>	W. J. Bees - - -	212

The Civil Servant and the Elected Person

By Miss SUSAN LAWRENCE

[Address to the Institute of Public Administration, London,
February, 1935]

I FEEL that I have been a little bold in attacking such a subject before such an audience; for indeed, properly considered, the relations of these two servants of the public is one of the most important parts of the machinery of Government, and one upon which the practical possibilities of democracy depends.

The Civil Service is, as we all know, one of the most important and most precious pieces of constitutional government; and it is something of which we should be very jealous. To keep that instrument perfectly polished, to be extremely watchful over anything which may spoil or taint it is, I think, the duty of every good citizen.

What is the proper relation of the elected person to the Civil Service, first, directly, in day by day administration, and secondly with regard to final control? Is our system as it should be with regard to these two things?

Now with regard to the first, I feel, if I may say so, pretty sure of my ground—I have, indeed, a number of serious practical measures to suggest, and I will try to do so.

But with regard to the second, the proper control of the civil servant, I feel that we are approaching old questions which, under present circumstances, have assumed a new aspect, and which need fresh consideration. Put briefly, Governments—all Governments—are undertaking new and unfamiliar tasks. The sphere of not only the Legislative but the Executive has been very greatly widened; and in consequence so has the sphere of the Servants of the Executive. We are seeing, on a fairly large scale, a quite new class of paid servants of the public dealing with policy and administration far beyond those ordinarily confided to civil servants. Now the method and the purposes of such extensions of Governmental power are political questions of the highest order—and on these, of course, I do not mean to touch. But the fact remains that this Government—like

Public Administration

all civilised governments—is moving into new spheres and undertaking new tasks; and, if anything may be said to be certain, we are only at the beginning of such a movement. And behind all that a Government may choose to do, remains the question of the right principles of Government itself; and it is in that aspect and that aspect only that I desire to touch later on on the proper relation of the full-time paid servant of the public—the professional servant of the public—to the elected person, whom some people unkindly call the amateur servants of the public.

On this comparatively smaller matter, I am quite clear. I think that direct personal contact with the elected person, and through him with the elected staff, is a matter of considerable importance in forming the perfect civil servant; and indeed any criticism which may be made of our national civil service usually means just that—that there is a want of touch. I can see immediately quite useful reforms in designing to bring about that end. The larger matters need, quite frankly, much more consideration and expert knowledge than I am capable of, and what I say on those are rather in the nature of what I may call provocation to this society—an invitation to those who are experts to apply their minds.

I begin with the reforms, which I call proposals for polishing the instrument. It is interesting to note the differences between the local Civil Service and the hierarchies of Whitehall. We have in England two systems of democracy which have grown up side by side and from different roots—local democracy and parliamentary democracy. Each have provided themselves with a staff of permanent paid civil servants; their relations with their staff, their methods of appointing their staff, and the peculiar professional ethics of the staff itself are completely different. And yet the men themselves and the nature of their work are so alike that if we take the two staffs of which I have some personal knowledge, the Ministry of Health and the L.C.C., you could really exchange a very large part of the men and women employed without much difference to anybody—except, indeed, that in the case of quite a number of opposite numbers near the top—the men who went to the L.C.C. would get an appreciable increase in salary. (The L.C.C., as I shall point out later, is quite different from minor local authorities.)

The professional ethics and the relation of the elected person to the staff are completely different. Let me explain what I mean.

If this is one thing on which the great men of the Civil Service pride themselves it is on their perfect anonymity. Sir Somebody So-and-So may be a very great man indeed—he may, one has been told in whispers of such cases, mould the policy of his department and hold successive Ministers in the hollow of his hand—and yet he

The Civil Servant and the Elected Person

would be really ashamed if ordinary M.P.s were to walk about the lobbies saying Sir S. S. says this or that. And when it comes to Committees of the House—the civil servants are there, but in a little pew, communicating if necessary hurriedly by scraps of paper with their Chief—but visibly isolated from common members—in a kind of purdah unable to speak to any but their official husband.

Now contrast the position of the local government official. The town councillors do say to each other—the borough engineer doesn't think well of the scheme, and are conscious they have said something important; the officers of the local authority sit at the same table in committee, and put in their word.

And when I come to the highest organisation of all, the League of Nations, I find that men—I will mention two who are not there now—like Sir Eric D. and Sir A. Salter—are almost exactly in the position of the town clerk or the medical officer of health; they sit on the committees—they join in the debates—the delegates certainly said to each other "Sir Eric Drummond does not think well of this," and were conscious they had said something important.

We are a little too apt to sing the praises of things as they are—and this tradition of the Civil Service is usually held up to us as a wonderful thing. It isn't really of the nature of the business; like so many things its origin is historical. The local authorities grew up as sovereign authorities within their limited sphere; it is really only quite recently that, chiefly by the device of the grant-in-aid, Ministers have got control of them. But the House of Commons is not and never was a sovereign authority. It isn't the Executive; its power lies as we all know in getting rid of any Executive it doesn't like. But the Executive remains; its servants are the servants of the Crown—and not of the House. And similarly the League of Nations is in its excessively limited sphere an Executive Authority—its officers are servants of the Assembly.

But to recognise the causes as inevitable does most certainly not mean we have to admire all the effects.

I think that the extreme isolation of the Civil Service is bad for the civil servants.

You do not notice the effects of this isolation so much in the great chiefs of departments. They are continually brought into contact with leading politicians. Very able men can learn anything; and when we consider the gruelling nature of the original examination, and the slow process of selection within the department it would be odd if they were not very able indeed. But I do think that the Administrators of the second and third rank tend to get set. For we take brilliant young men (and very occasionally brilliant young women) straight from the Universities, who haven't taken part in

Public Administration

the rough and tumble of life or as yet met with real responsibilities, and we put them in an office, under superiors, responsible to them and them only and carefully guarded from contact with the public—and deprived even of the right of free professional organisation. They do tend to get what I called set, and to absorb not even so much the tradition of the Civil Service as the tradition of the department. And it is really true that different departments have different traditions. Even the outsider can see that when, as sometimes happens, similar pieces of work are confided to different departments, you get oddly different results. When the Office of Works administers housing estates, or the Home Office manages industrial schools, or indeed as now when the Ministry of Labour tries its hand at a new poor law—you get results which are most certainly not at all in accordance with the traditions of the departments usually concerned with such work; and which I am convinced must be a subject of much criticism on the part of the old officials. I have always said if you wanted a really Revolutionary Government you ought to begin by interchanging the staff of all the Government Departments—so as to set trained administrators administering new subjects. They would do it perfectly. I can quite well see the Foreign Office staff dealing with the Balkan complexities of altering the boundaries of the Soke of Peterborough—a question which has frightened successive Ministries and even Royal Commissions. And I should dearly like to see the Treasury exchange staff with a big spending department. But this is a dream.

But returning to the question in hand. I think the training that the civil servant gets is not as good as it should be. I think they are too much locked up in an ivory tower, and I want to remedy that—and bring them more in touch with the elected representatives of the people, and so with the people themselves who are the subject of their administration.

Now I am not going to break off on the possibility of introducing the committee system of government into the House of Commons. It is great fun, but not very practical to teach one's own grandmother; and the grandmother of Parliaments is an exceptionally obstinate old lady. We know that on all major and controversial measures what one may call the old hands—those who are in office—or those who have been in office—would dislike it inexpressibly. I can see, indeed, a whole class of minor measures which clutter up the time of Parliament, where the details might be referred to committees on which the presence and the voice of civil servants would be useful. To give an extreme example—I think it was simply silly that Parliament should spend an afternoon, as it did in '28, in deciding whether the mere consolidation of the Poor Law Acts had

The Civil Servant and the Elected Person

been well and truly done; or in debating parish boundaries as it did in '31. If the House of Commons will—as I think it ought—delegate a good deal of detailed work on that kind of thing to its own committees; then I am strongly of opinion that the civil servants should be there to speak for themselves.

That would, I think, be good for Parliament, and for business—but it would, of course, touch only the edge of the Civil Service and only the heads of departments.

What I think we could and ought to try to do is to see that all civil servants should spend some time in public work right away from their own department. And I can see quite clearly how this could be done for the home departments, though there are a good many lions to be chased out of the path. The broad idea is that of an exchange between local and central administration; indeed at the Ministry of Health, which is the only office I have seen from inside, I should like it to be a rule that at any rate the first division men *must* have spent some time in local service; I think this would improve both local and national service.

Now let us look at what local authority staffs are like. The great authorities—such as the L.C.C.—very nearly parallel a government department. They have competitive examinations of their own for appointment; promotion—except for the very highest posts—proceeds practically under the control of the departmental heads; their salaries are often better than in the Ministry of Health; their men are very good indeed. Men do occasionally transfer from central to national—though this is difficult because a transfer means loss of pension rights. You can say that in London you have two Ministries of Health. But it is true to say that the two sets of competitive examinations are a dreadful nuisance to the schools, and a worry to the parents; and it is also true that the sacrifice of pension rights, necessary for a transfer, does prevent transfers except in the case of ambitious men who for a specially attractive post will take the risks. (But specially able and ambitious men always do rise by their own specific gravity.)

Now I come to the great mass of minor local authorities. They can't hold examinations; they are on much too small a scale; they have to appoint. And if there is one canon clearly fixed in the art of government, it is that the ordinary elected person ought not to make appointments directly. We fought all that out in the 60's with regard to the national service; you need a machine for appointment. The little authorities are on too small a scale for anything of that kind. They may or may not have pension schemes; they may, or may not, have an age-limit for retirement. They may— they sometimes do—get very excellent men. I have sometimes been

Public Administration

surprised at the ability I have met with. (I have in my mind at the minute a local case of really fine original work being done by a local man who has, as far as I can see, no chance of rising to where he ought to be.) But broadly and generally speaking, the minor local authorities do not get the kind of staff the big authorities and the Ministry of Health get. And yet, the work the small staffs have to do is much more varied, and asks much more from a man than the work of their colleagues in the big staffs where they are more or less a cog in a machine. Now, unlike some people, I am very fond indeed of the little authorities. I think you see local spirit at its very best in a borough small enough for every citizen to know the mayor by sight, or in a rural district council where the village knows it is so much better than the next village; and I want to leave the minor authorities every bit of that work which is within their scale—that is which by its nature doesn't need a wider area. They want a good deal of guidance from the top, but that is what the Ministry of Health is there for.

But broadly and generally I should like to improve their staff so that their staff should be as attractive, offer as wide opportunities of promotion, and be composed of as severely selected persons as the Civil Service.

Now if we combine those things—the undue isolation of Whitehall from actual life—the entirely different position of local officers particularly in the smaller authorities—and the great desirability of giving the smaller authorities a better staff—we see I think that it would be good for both services if their staff was really interchangeable, and regularly interchanged.

And to do this first a uniform standard for entrants is required. I want one set of competitive entrance examinations conducted by the Civil Service for all the grades they now examine, first class, second class and so on. The successful would distribute themselves according to the openings among local authorities, Ministry of Health, and quite a number of places in the Ministry of Labour and, I think, in the Home Office; and, I would add, the Treasury itself. Local authorities and the departments could choose among the list. And I think that when the thing had really been started, the departments, and especially the Board of Education and Ministry of Health, should generally only fill up a few positions from the men on the list from the Universities—they should habitually take their men from those who have had a good spell of local service. I don't think this would make any appreciable difference to the authorities who now recruit by examination, and who do offer quite as good chances of promotion as a government department does; it would make a great deal of difference as you went down the scale.

The Civil Servant and the Elected Person

And then we should obviously have to deal with salaries and pension rights. I don't propose anything very wild here—I only want for local government office staff generally pretty well what the Board of Education now does for teachers; that is, minimum rates of salaries, and a universal pension scheme.

Now I have dealt in detail with the points I more or less understand. But I think this business of turning the civil servants out of the office is applicable to other departments. I have read books, *e.g.*, criticising the Colonial Office and suggesting similar sort of exchanges, but I am frankly a little frightened of touching departments which I only know by hearsay; and perhaps what I have said is a sufficient example of an endeavour to counteract what I cannot help thinking the bad side of what we know as the traditions of the Civil Service.

PART II.

And now I approach the second and more important topic—the proper sphere and the proper control of the civil servant; and must therefore touch on the position of the Executive.

Ministers of the Crown are under a double check. They are responsible to Parliament; they are also responsible to the Courts of law.

They are responsible to Parliament—that is by a useful fiction—they are responsible for every act of their officials. If, *e.g.*, a Minister answers a question untruthfully—he is the liar—even if some one of his officials may have blundered—he can't say so—he has got to take the blame.

And the Minister is responsible to the Courts—he may, theoretically, be prosecuted or even impeached. And though this has a little gone out of fashion, it isn't so very long ago that a whole set of circulars of a Ministry, and a great part of its expenditure of public money over a long course of years, was declared *ultra vires* and completely illegal. I allude to the great Cockerton case, when the judges declared that the whole of the grants of the Board of Education on higher education under the Act of '70 were illegal; and as a direct consequence Parliament passed the Education Act of 1902.

Now this double responsibility is a very disagreeable thing; and the natural tendency of departments is to try to get away from it. I am not at all concerned here with a question on which much learned ink was spent in 1929—the power of the Minister to legislate by way of Order. That is, one may say, a quarrel between the Executive and the Legislature—it most certainly does not touch the Civil Service. Even, if it were judged that the Minister had in any instance usurped power; *he* would still be responsible.

Public Administration

But there are two other devices by which Ministers may try to escape from one or other of these double responsibilities; not very prevalent perhaps as yet, but I think with possibilities of dangerous growth. He may either try to get away from Courts by appointing his own arbitrators to deal with his own Acts of Parliament; or he may try to get away from Parliament by setting up bodies of civil servants to administer, with a quasi-independence from himself, and who are, in consequence, in all ordinary times removed from Parliamentary control; and, as a consequence, you get, or may get, civil servants in a host of ambiguous positions—buffer states as it were—acting as judges but yet not really judges—or acting as administrators without popular control.

And this is very bad for the Civil Service. If things go wrong they have no proper defender—they are exposed to the pressure of public opinion in a very irregular way; and they are peculiarly helpless; it is not their trade—as it is the politicians—to deal directly with an angry electorate; and they never assumed the particular risk of the politician's dangerous trade; that is, of instant execution if they misjudge their master's mood.

The tendencies of which I have spoken are in the nature of original sin—all governments feel in the same way. And, in practice, Parliament is often not a good watch dog—for such measures usually occur as part of some great controversial Bill—when both Government and Opposition are passionately concerned with the principles of the measure and have very little time to give to machinery.

But this society is formed to consider the machinery of government; and one thing is clear that Government (whichever political party is in) is more and more stretching into new spheres of administration; and the old questions of the delimitation of the powers of the Executive are, therefore, becoming alive again.

And it is just here that I feel I am entering on a subject on which the text-books give very little help. There must be special tribunals for special subjects; there must be, if we look at present-day probabilities, special bodies created for special subjects. I can see that actual practice differs very widely; I don't get any clear line as to principles.

Let me begin with arbitrators.

I said practice differs widely. I will give two examples, and I have purposely chosen two that are working quite quietly and happily; but one of which must be quite wrong in point; one is the umpires under the Insurance Act of 1911; and the other the arbitrators under the Acquisition of Lands Act, 1919.

I will take the position of umpires under the Unemployment Insurance Act.

The Civil Servant and the Elected Person

These officials are appointed by the Crown—of course that means by the Ministers. I know that at the time there was a certain amount of legal discussion as to whether Parliament itself could prevent a citizen having access to the Courts on points of law—but in practice these Courts appointed decide questions of law as well as of fact.

Practically, therefore, the rights of persons who have contributed to the Unemployment Insurance Scheme have been removed from the ordinary courts of law; and placed neither under the responsibility of a Minister nor under a branch of the judiciary.

Here is an example of a completely opposite way of dealing with such things—the arbitrators under the Acquisition of Lands Act, 1919.

These people deal with property claims. They are appointed by the Lord Chief Justice, the Master of the Rolls, and the President of the Surveyors' Institution. The right of appeal on points of law is elaborately safeguarded in the statute, and they operate under rules laid down by the body I have already mentioned. They are, in fact, as much part of the judiciary as the County Court Judges—if you substitute the Lord Chancellor for the Lord Chief Justice and the Master of the Rolls.

You will see at once, if things went wrong, if either body became violently unpopular, how much unprotected the umpires would be, being neither a branch of the courts or under the safeguard of a Minister. Indeed, it is as certain as anything political can be, that if there was any big disturbance they would be perfectly defenceless.

Briefly speaking, I think the Lord Chancellor should set up a Committee to consider the principles on which special judicial tribunals should be appointed and governed. There are a vast mass of these already; and they are likely to grow; it is hardly an exaggeration to say that almost every new big Bill carries tucked away in it some sort of arbitration clause. And then I would have a separate Act of Parliament passed, so as to fix the principles which must in future be adopted, such as method of appointment, who was to lay down rules for their procedure, and whether there was to be any appeal on points of law; the House of Commons would really debate such a Bill; and then when the new exciting Bills came along—and no one, not even the most hardened lawyer in the House wanted to talk machinery, or could get anyone to listen to him if he did—the lines for the inevitable new tribunals would have been laid down beforehand.

But there is another device far more likely to be dangerous. If Ministers desire to free themselves from the authority of Parliament; one classical device is to set up under the Minister and appointed by the Minister—and sometimes dismissible at will by the Minister—

Public Administration

a body of civil servants, for whom they either have no control or not full control, for whom they are not fully responsible and are therefore not responsible to Parliament. In order to avoid touching too much on current affairs, I will begin by very old history to make my meaning clear. I will take as a classical example the Poor Law Legislation of 1934. The situation was then that the then government decided to set up a new system of Poor Relief on the lines recommended by the Royal Commission of 1932. That Commission asserted unhesitatingly that local authorities would never themselves reform the Poor Law; that they must be forced to do so by a central authority. They decided emphatically against the central authority being responsible to Parliament—quite explicitly on the grounds that Parliament composed of elected persons could not be trusted, "Candidates for political power would bid for popularity by promising to be good to the poor." The government (which may be supposed to have known quite as much about that as the Commissioners) accepted their proposals. And in consequence, the whole management of the Poor Law was confided to these Commissioners, who were not to sit in Parliament or to be responsible to Parliament except so far as they submitted reports to Parliament which might be the subject of debate, and their salaries appeared in the estimates. But as Parliament made no vote for Poor Law the possibilities of debate were limited. They were really—to use the proper term—Komissars—they came to a bad end finally, for they were abolished in '48 as a result of some shocking cases of really cruel administration. But they lasted fourteen years, and these fourteen years were bad times for the poor.

But they may have had a case; that case was never really put; as when trouble came they were thrown to the wolves; bad and harsh as their actions were, I don't think anyone can doubt that the intentions of the Parliament of '34 were carried out.

This is the classical example of government by officials; and I don't think, at this distance of time, anyone would hesitate to say that it was completely wrong in principle—a negation of the sound principle of Ministerial responsibility. But the odd thing is that the House of Commons never boggled at it at all. As usual, when a big or interesting Bill is on, the House of Commons pays but the slightest attention to machinery.

Now I have spent some time on this old instance because it is really applicable to the present day—the motives were the same. To take an important subject "out of politics" to ensure a greater stability in administration than Parliament is likely to provide—these were the motives for the Commissioners of 1834.

The Civil Servant and the Elected Person

These motives exist now; the idea is quite potent in theory; we have some actual examples in practice and in plans. We have had Local Poor Law Commissioners, on the old plan, with the added power of rating in these poor law localities; we had till this year a Commissioner in Durham Co. charged with the full power of local authorities in administering transitional benefit. I should have had nothing to say, on constitutional grounds, if the appropriate Minister had taken over such powers—it occasionally does happen that local authorities have to be suspended by the Minister—responsible to Parliament. To take quite a different instance, some enthusiasts for housing—real experts who have done excellent work—have passionately advocated a Housing Board, independent of the Minister, so as to take housing out of politics. And, without touching in the least on the merits of an unsettled political question, we have lately had an experiment in that direction, which has not been very successful. For it is perfectly clear by the terms of the Unemployment Act, 1934 (36 (3)) that Parliament did give the Unemployment Assistance Board complete power with regard to scales of relief—subject only to the terms of the Act—and it is equally clear that the House of Commons, very much disliking what had been done, was able to practically refix responsibility on the Minister—though in the course of that debate they were strictly forbidden by the Chair to discuss the Minister's own regulations or to refer to the Chairman of the Board—and were in fact debating matters which they had only a couple of months before delegated to the Board. For, on the rare occasions when the House really takes the bit in its teeth, there are practically no limits to what it can do.

But we are talking of the science of government; and not of the fact, cheering to all who believe in democracy—that Parliament, in the last resort, will and can smash anything that it happens to violently dislike—that is, on those very rare occasions when Parliament as a whole has a will of its own.

And part, and an important part, of the science of government is that the electorate should be able to smash elected persons; but that the Civil Service should be immune from such direct attacks.

Now I am asking this body to give attention to this question; for it is likely to assume importance in the future.

It is tolerably certain that governmental control is extending and likely to grow. This government has already assumed new responsibilities, particularly with regard to agriculture; it is being urged to do something to reconstitute industry. The alternative government—already outlining itself—proposes as we all know great schemes of nationalisation. And it is equally certain that to carry out such schemes, new bodies must be created; and, if created on the wrong

Public Administration

principles—let us say in the model of 1834—might, by putting the civil servants in a wrong position, strain and damage the Civil Service itself very severely.

And very tentatively, I am tempted to think that the true principle is that if Parliament creates special bodies for special purposes they should be under the control of a special electorate—as is the case where functions are now delegated to local authorities—so that if trouble arises, it will be elected persons and not professional civil servants who should take the racket; and that there should be full Ministerial responsibility for any body of administrative not so elected.

I am speaking here very carefully, and generally. There may be cases, we can all think of them, where it may be impossible at a given time to find a suitable body of electors, and where, if the work has to be done and done quickly, some sort of a nominated body must be set up. But, I think, with all due allowances for exceptions, something like the above should be the general rule.

Let me take two examples from the possible future. The Conservative Conference at Bristol and Lord Melchett in the House of Lords profess what is called a scheme of self-government in industry, by which very large powers indeed are to be given to committees of employers. The scheme for the nationalisation of the coal industry—put forward by the M.F.G.B. and adopted by the Labour Party—provides for the management of the industry by committees of those actually engaged in the industry, either in the office or in the pit. Now members of the audience may, like myself, passionately advocate one scheme and hate the other; but they are both perfectly correct from our present point of view—that of the position of the Civil Service. For there is in either case an electorate and elected powers on whom any dissatisfaction of the electorate would fall.

For, indeed, it is a very bad thing for the civil servant to be without an elected person to take the responsibility for policy and for administration; it is a very bad thing for the Civil Service itself when the people, if they are discontented with any event can lay the blame on a bureaucracy. They can never do that if the machine has been constructed from the start on right principles. I said when I began that I rather preferred, in dealing with these higher matters, to make suggestions for more competent study rather than to lay down a course of action; I am conscious enough that I have only touched superficially on a big subject; but my reason for raising it here is precisely that it is a big subject likely to be of importance in the future. It is undoubtedly highly controversial and needs, as I think, some further clarification; and if I have as it were persuaded real experts to grapple with it, I think I shall have to-night performed a public service.

In Praise of Dicey

1885-1935

By W. IVOR JENNINGS, M.A., LL.D.,
Reader in English Law in the University of London.

THE *Report of the Committee on Ministers' Powers*¹ was attacked by some because of its antiquated constitutional doctrines.² Those doctrines were, to a large degree, dictated to the Committee by its terms of reference. For it was appointed "to consider the powers exercised by or under the direction of (or by persons or bodies appointed specially by) Ministers of the Crown by way of (a) delegated legislation, and (b) judicial or quasi-judicial decision, and to report what safeguards are desirable or necessary to secure *the constitutional principles of the sovereignty of Parliament and the supremacy of the Law.*" The words italicised in the quotation did not necessarily imply more than that the general control of Parliament must be maintained and that all administrative acts must accord with the law. But the presence on the Committee of a number of lawyers bred in the traditions of the nineteenth century, and above all the fact that the Committee was called for because of the attacks of the Lord Chief Justice in *The New Despotism*,³ led almost inevitably to the conclusion that the Committee would reinforce the principles of the "Sovereignty of Parliament" and "The Rule of Law," which Dicey had enunciated as eternal principles of the British Constitution in *The Law of the Constitution*.⁴

It is given to few jurists to put forward doctrines of constitutional law which become not merely classic, but which fifty years later are regarded as so essential and fundamental that a special inquiry is necessary to determine whether more recent constitutional changes have not infringed them. Moreover, the book is not, like so many classics, honoured but unread. There are few law students who are set to read it at the outset of their careers; there are few students of political science in the English-speaking countries who do not study

¹ Cmd. 4060/1932.

² W. A. Robson, "The Committee on Ministers' Powers," *Political Quarterly*, Vol. III, pp. 346-364; Jennings, "The Report on Ministers' Powers," *PUBLIC ADMINISTRATION*, Vol. X, pp. 333-351.

³ 1928.

⁴ 1st Edition, 1885; 8th Edition, 1914.

Public Administration

it with attention. Its ideas, and even the names by which they are designated, are part of the equipment of the lawyer, the political scientist, and even the so-called "practical" politician. It is therefore fitting that fifty years later the book should be re-read and its doctrines reconsidered. It is all the more fitting that one who has strenuously attacked some of Dicey's ideas⁵ should himself re-read and reconsider. He may not find—indeed, he does not find—that his criticisms can be modified. But he can at least bear witness to the intellectual merit of the work and seek to discover wherein lies the elements which have made it so popular and so authoritative.

A public lawyer, like the philosopher, is the child of his age. His ideas are affected not only by his own up-bringing, but also by the floating ideas of the time at which he writes. In appraising the work of Dicey, therefore, it is essential to remember the environment in which he wrote. England had led the way in two kinds of revolutions, the political and the industrial. The political revolution, the revolution against royal despotism, occurred in the seventeenth century. Out of it sprang Parliamentary government. Parliamentary government does not, of course, necessarily mean democratic government. Indeed, "democracy" was for most of the nineteenth century a term of reproach. To say that a man was a democrat was to say that he was a Radical, a person who believed in overturning the established institutions of the United Kingdom. Many examples could be quoted, perhaps the remark made by Queen Victoria on hearing that the Liberal Party had been successful at the General Election of 1880 is the most apposite. "This is a terrible telegram The Queen cannot deny she (Liberal as she has ever been, but never Radical or democratic) thinks it a great calamity for the country and the peace of Europe."⁶ The Queen was no democrat, but she was a strong supporter of Parliamentary government. In this respect her opinions were the same as those of the Conservative Party with whose views, in spite of her use of the term "liberal," her sympathies lay in 1880. It is true that in 1867 Disraeli, the leader of the Conservative Party in the House of Commons, had by a marvellous display of Parliamentary tactics persuaded a Conservative Government to introduce and permit the passage of a measure which extended the franchise to many of the urban working-class. It is true also that in the Parliament of 1880-1885 there was a small group of Conservative members of the House of Commons, led by Lord Randolph Churchill, who adopted the policy of "Tory Democracy." But Disraeli's effort was exceptional, and if there had been another Conservative member of the ability of the young Disraeli, who broke

⁵ See Jennings, *The Law and the Constitution* (1933).

⁶ *Letters of Queen Victoria*, 2nd Series, Vol. 3, p. 73.

In Praise of Dicey

the party when Sir Robert Peel reversed Conservative policy in 1846, the Chancellor of the Exchequer of 1867 would have followed the example of the Prime Minister of 1846 and lost his party. "Tory Democracy," too, was a transient phenomenon whose lack of substance was demonstrated when Lord Randolph Churchill resigned in 1887. "Tory Democracy," said Lord Rosebery, who was of course biased, "was the wolf of Radicalism in the sheepskin of Toryism."⁷

The Conservative Party of 1885 believed in Parliamentary government but not in democracy. It had accepted with great reluctance the enfranchisement of the rural working-class by the Act of 1884. But there had also been strenuous opposition to this Bill within the Cabinet. The survivors of the Whigs, led by the Marquis of Hartington, fought the Bill in the Cabinet as long as they could.⁸ But the Liberal party of 1880-1885 was essentially Radical. The Whigs were more in sympathy with the Conservative than with most of the Liberal party; and the split in the Liberal party over Home Rule in 1885 was in the natural order of political development.

Dicey was a Whig. He had had doubts about the acceptance of the Vinerian Chair because his appointment would put an end to his political ambitions. While he held the Chair he took a prominent part in politics. He was an able speaker, and was much in demand at political meetings. But he was on the right wing of the Liberal party; and when the split came in 1886 he followed the Marquis of Hartington into opposition.⁹ The book which he wrote as soon as he had finished *The Law of the Constitution* was *England's Case against Home Rule*, published in 1886. His views gradually merged into those of the Conservative party, and he was not only a great supporter of Sir Edward Carson in the later Home Rule dispute of 1914, but he even signed "the Covenant" and so placed himself on the right wing of the Conservative and Unionist party, and announced doctrines of forcible resistance to law which some find difficulty in bringing within "the Rule of Law," however understood.¹⁰

But England's second revolutionary movement must not be forgotten. This was the Industrial Revolution which began, roughly, in 1760. The immense mineral wealth of Great Britain, combined with a remarkable fertility of invention among her people, produced a gradually developing change in the economy of the country which finally made the England of 1860 fundamentally different from the England of a century before. With the change of economic environ-

⁷ Lord Randolph Churchill (1906), p. 136.

⁸ See B. Holland, *Life of the Eighth Duke of Devonshire*, Vol. I, ch. XVII; and Gwynn and Tuckwell, *Life of Sir Charles Dilke*, Vol. I, ch. XXXI.

⁹ See R. S. Rait, *Memorials of Albert Venn Dicey*, chs. VII and VIII.

¹⁰ See Colvin, *Life of Lord Carson*, Vol. II.

Public Administration

ment, there came a change in economic theory, dominated by the ideas of Adam Smith and Ricardo. Such changes necessarily produced developments in political theory. When Lord John Russell wrote the famous "Edinburgh letter" of 1845, he indicated that the Whig party had definitely accepted the doctrines of *laissez-faire*. The rise of Sir Robert Peel, the son of a manufacturer, to the leadership of the Tory Party, indicated that that party, too, was not free from the modern "heresy." The repeal of the Corn Laws by Peel in 1846 was a confirmation of this changing opinion; and though Disraeli, under the convenient titular supremacy of a son of the Duke of Portland, led the great body of the Conservative party into opposition, he finally persuaded most of his followers to relinquish their mercantilist views. In any case, the Conservatives did not get a Parliamentary majority until 1874, and then there was no suggestion, except for Disraeli's momentary enthusiasm for social reform (a relic, possibly, of the views which he had expressed in his early novels), of any desire for economic change. In the meantime individualism was dominant through the Whig party and their allies, the Peelites, who had by 1874 coalesced into the Liberal party.

Dicey, we are told,¹¹ was a "life-long Free-Trader." There is no evidence that he had given special study to the problems of political economy. But quite clearly his sympathies on this as on other subjects were with the Whigs. But the Liberal party of 1885 was not Whig, it was Radical; and though Radicalism contained a number of discordant elements, it was rapidly ceasing to accept *laissez-faire*. The earlier Radicals had been individualists. On the political side they inherited the ideas of the French Revolution, in spite of the summary rejection by Bentham of the "Rights of Man" and the theory of natural law on which they were founded. But their spiritual father on the economic side was Adam Smith; and Ricardo and James Mill developed individualist doctrines still further. But John Stuart Mill, the greatest of the Radical philosophers after Bentham, changed his views under the pressure of events and the process of argumentation. His collectivist ideas added to another stream of Radical ideas which proceeded from Robert Owen; and the two streams produced the Fabian Socialism of the end of the century. The Liberal party as a whole did not become dogmatically collectivist. But both of the great parties were affected by the changing ideas of the philosophers. Herbert Spencer was arguing a cause which was, politically, lost. In 1885 the process of social reform had not proceeded far. Joseph Chamberlain's "gas and water socialism" in Birmingham, and still more his "unauthorised programme" of 1885 indicated the changes that might be coming. The Conservative

¹¹ R. S. Rait, *op. cit.*, p. 115.

In Praise of Dicey

government of 1885 was overthrown on a "three acres and a cow" amendment which formed part of the new Radical programme. But a Whig of 1885 would not have had his ideas seriously affected by notions which later became the common property of all parties.

One other prevailing idea of 1885 must be mentioned, because it must have affected the popularity of Dicey's theories. The view that the British Constitution was the best in the world was by no means a new one. It was expressed by the Tory Blackstone and the Whig Burke towards the end of the eighteenth century. It was, indeed, not entirely unjustified in the eyes of those who believed in political liberty. Dicey quoted with unction the views of Voltaire.¹² British economic supremacy in the nineteenth century was not likely to extinguish the notion that Englishmen had an inherent capacity for government which other nations did not possess. But this sentiment was enormously fostered by the growth of imperialistic ideas in Great Britain from 1870 onwards. Palmerston's famous "Civis Romanus sum" speech in the Don Pacifico dispute had already met with immense favour. Disraeli's "spirited" foreign policy of 1874 to 1880 struck a resonant chord, however much its consequences proved unpopular among the newly enfranchised working-class. Even a Radical like Dilke could be an imperialist; and the foreign policies of the Earl of Clarendon, Lord Granville, and Lord Rosebery were not fundamentally different from those of the Conservatives, though Liberal Cabinets kept interfering with their imperialist ideas. Later on, even the purged Liberal party developed its imperialistic wing. Sir Edward Grey, Asquith, and Haldane kept in check the "little England" ideas of Sir William Harcourt, Sir Henry Campbell-Bannerman, and John Morley. While on the other side, the former Radical Joseph Chamberlain became the apostle of imperialism.

It may well be asked what all this has to do with Dicey's famous book. The answer is that it supplies the background in which the book was written, and that it could not fail to influence the ideas which the book expressed. Dicey was not writing a political effusion. He was engaged in analysing the fundamental principles of the constitutional law of 1885. He therefore did his best to exclude his subjective notions. He was concerned with laws only. The proper function of the constitutional lawyer, he said,¹³ "is to show what are the legal rules (*i.e.*, rules recognised by the Courts) which are to be found in the several parts of the constitution." Again,¹⁴ "the duty of an English Professor of law is to state what are the laws which form part of the constitution, to arrange them in their order, to explain their meaning, and to exhibit where possible their logical connection."

¹² *Law of the Constitution* (1st Edition), ch. V.

¹³ *Op. cit.*, p. 31.

¹⁴ *Ibid.*, p. 32.

Public Administration

That this is the whole duty of a professor of public law is not a doctrine which the present writer is prepared to admit. The boundaries between law and political science cannot be drawn so fine. Public law is not all contained in the "rules recognised by the Courts." The rules themselves cannot be understood save in their ideological context. The constitution produced by consideration of the rules only is a travesty of the truth. But the greatness of Dicey lies in the fact that he exceeded his own limits. He did not merely state the laws, arrange them in their order (whatever that may mean), explain their meaning, and exhibit their logical connection. He went much further; he stated constitutional principles. And, in spite of all his efforts, his subjective notions, the product of his time and circumstances, peeped out through his principles. Just as Macaulay saw the history of the eighteenth century through Whig spectacles, so Dicey saw the constitution of 1885 through Whig spectacles. His principles were Whig principles.

It cannot be doubted that Dicey did not know this. He certainly was not trying to give a partisan explanation of the Constitution. He was not, to adapt Dr. Johnson's famous phrase, taking care that the Tory and Radical dogs did not have the best of it. He thought that he was writing law and not politics. He assumed that Mr. Chamberlain would, if he gave the same attention to the subject, come to the same conclusions as himself. Nevertheless his work is impregnated with Whig ideas. This is made abundantly clear in the eighth edition, where the author provided a new Introduction, analysing and criticising, in the light of the principles enunciated in the book, the "new constitutional ideas" which were in existence in 1914. We find that the Liberal Unionist disliked, or at least provided good arguments against, woman suffrage, proportional representation, and imperial federalism (including Home Rule for Ireland). We find, on the other hand, that he did not disapprove of the proposal for a referendum—a proposal which has on several occasions been put forward by Conservative statesmen, either because their party was divided (as on tariff reform), or because they disliked the Radical legislation of the later Liberal party and thought that, by an agitation in the country, they could persuade a majority of the electors to vote against it. Dicey was still being "impartial," but he was stating principles acceptable to the Conservative party; and, above all, these principles had nothing whatever to do with "the rules recognised by the Courts."

But the influence of Dicey's work does not depend upon the argument in the Introduction to the last edition. It depends rather upon the principles stated in the body of the book. It is somewhat more difficult, but still not very difficult, to show the Whig assump-

In Praise of Dicey

tions upon which those principles are based. These principles are "first, the legislative sovereignty of Parliament; secondly, the universal rule or supremacy throughout the constitution of ordinary law; and thirdly (though here we tread on more doubtful and speculative ground), the dependence in the last resort of the conventions upon the law of the constitution."¹⁵ It is not our function to determine whether those principles are right or wrong.¹⁶ Our purpose is to indicate the assumptions upon which they were based.

The doctrine of the sovereignty of Parliament is the one which can most nearly be proved out of "rules recognised by the Courts." Dicey proves that some alleged restrictions on the powers of Parliament do not exist. Kier and Lawson in their *Cases in Constitutional Law*¹⁷ produce some statements from the Courts which support it but do not entirely prove it according to the English theory of case law. Stated in the form which Dicey gives it, it is of nineteenth century origin. Dicey's reason for stating it in that way was that it had been accepted as a principle of political theory by the Radical philosophers and thence had passed into legal theory. The assumption is that somewhere in every state there must be a sovereign. The notion, as is well known, was formulated by Bodin and accepted by Hobbes. From Hobbes it was taken by Bentham and worked out by his disciple Austin. Austin tried to apply it to English conditions, and found considerable difficulty in doing so. For while the Courts apparently accepted the view that Parliament could make what laws it pleased, he could not regard Parliament as satisfying the requirements of a sovereign. Dicey solved the difficulty by distinguishing between the "political sovereign" and the "legal sovereign." Actually, sovereignty according to law is not sovereignty at all, and the use of the phrase "legal sovereignty" introduces a fiction. However, the important point is that it was a doctrine of political philosophy which Dicey used to explain the legal powers of Parliament, and not a doctrine drawn from decisions of the Courts. Dicey's complete acceptance of the doctrine of political philosophy is shown by his definition of constitutional law¹⁸ as including "all rules which directly or indirectly affect the distribution or the exercise of the sovereign power in the state." This definition, incidentally, compels the constitutional lawyer to consider whether the doctrine of sovereignty is valid or not, even if these matters are "too high" for him. In any case, Dicey could not have taken the doctrine from the statute law or the "judge-made law."

¹⁵ *Law of the Constitution*, 1st Edition, p. 34; 8th Edition, p. 34.

¹⁶ In my *Law and the Constitution* I produce reasons which lead me to deny the second and third and to accept, doubtfully, the first.

¹⁷ 2nd Edition, 1933, pp. 1-2.

¹⁸ *Op. cit.*, p. 24.

Public Administration

It should be added that Dicey's doctrine leads to two difficulties. The first is that it assumes that Parliament cannot limit its own power, a principle which causes difficulties in Imperial matters.¹⁹ The second is that it causes his followers as well as himself to confuse the legal status of "non-sovereign" legislatures such as those of the federal constitutions of Canada and Australia, with that of local authorities and other subordinate rule-making authorities. This confusion is certainly not in accordance with the case law.

The third doctrine, that of the sanction of constitutional conventions, has even less warrant in the "rules recognised by the Courts." Let it be said at once that Dicey's analysis of constitutional conventions (he invented the term) was a magnificent contribution to English public law. But there are not, and there cannot be, any rules relating to constitutional conventions in the "rules recognised by the Courts." Their essential characteristic, as Dicey made clear, is that they are *not* recognised by the Courts. His discussion, therefore, is entirely outside the limitations which he imposed upon himself. It is a discussion not of law, in his narrow sense, but of political science or jurisprudence. The conclusions which he reached were based essentially upon political theory; and the theory which he accepted by implication was that laws are rules enforced by a sovereign upon subjects. The theory is to be found in Austin, but it is really a relic of the class domination of the older constitution which was not quite out of date in 1885, and which was fully in accord with the unexpressed premises of Whig political philosophy. Because constitutional conventions are obviously not imposed by a governing class upon those who are governed, therefore he had to explain obedience to them. He assumed that law is obeyed because it is enforced, and therefore assumed that if constitutional conventions are obeyed they must be enforced by the law.

It is, however, the second doctrine, that of the "Rule of Law," which is Dicey's most important contribution; and it is this doctrine which is most relied upon to-day. Upon it is based Lord Hewart's objections to modern administrative powers; and it is this doctrine which is quoted at length in the Report of the Committee on Minister's Powers. It is, however, the doctrine which most obviously exhibits Dicey's Whiggism.

The individualist constitutions which follow the principle established at the American and French Revolutions are not concerned with administrative powers to any substantial degree. They are concerned primarily with legislative and judicial powers. In particular, they enunciate the "Rights of Man" as being restrictions upon legislative power. Dicey, as a good individualist, followed their

¹⁹ Cf. Statute of Westminster, 1931, s. 4; Statute of the Union Act, 1934, s. 2 (South Africa).

In Praise of Dicey

example. He was therefore not concerned with any administrative powers except those relating to the army and navy and to police powers. In England there is no "Declaration of Rights," and yet individual liberty is at least as well protected as in countries where it is formally protected by the constitution. Dicey proceeded to examine English law on the liabilities of soldiers and officials, on martial law, on the revenue, and on the "rights" to personal freedom, freedom of discussion, and public meeting. As a necessary corollary, he brought in the responsibility of Ministers of Parliament, though this is a matter of constitutional convention and cannot be found in the "rules recognised by the Courts" at all.

He regarded all these questions not from the angle of powers, but from the angle of limitations upon power. He did not consider, for instance, the wide taxing and police powers, or the wide powers expressed in the Army Act and the Naval Discipline Act. He considered only the important though subsidiary principle that if powers are exceeded by an officer there is, subject to important limitations which he did not mention, a right of action against the officer. He paid no attention to the wide powers possessed by other kinds of officials and by other kinds of administrative authorities. He did not even consider the peculiar powers and immunities of the Crown. In other words, he did not consider the substance of administrative law at all. Apart from the single chapter on the Revenue, where he did not explain the powers, but aimed at showing only "that the collection and expenditure of the revenue, and all things appertaining thereto, are governed by strict rules of law," he was concerned with two aspects of constitutional and administrative law only. These aspects are, first, that so far as there are any fundamental liberties at all in England, they do not arise out of constitutional guarantees but out of the civil law; and secondly, that the English law of *contentieux administratif* is applied by the civil courts.

These are undoubtedly important points, and they do differentiate English public law from some other systems of public law. But they are not essential points of distinction. They do not permit the English lawyer to state the absurd proposition that there is no such thing as administrative law in England. Nor do they permit him to say that the principles of English constitutional law arise out of decisions of the courts, seeing that much of the organisation and most of the powers are derived from statutes. Above all, they do not permit him to say that the British Constitution excludes the existence of "wide discretionary authority" on the part of the Government.

This is not the place to consider in detail the three meanings of the "Rule of Law" which are paraphrased in the preceding para-

Public Administration

graph.²⁰ We are concerned rather with the assumptions which led Dicey to select his material so as to emphasise these three meanings. In the first place, it is obvious that he was not concerned with constitutional and administrative powers, but with constitutional guarantees or their absence. That is, he regarded the Constitution from the Liberal—or since that conception has altered—the Whig point of view. The Constitution was for him an instrument for protecting the fundamental rights of the citizen, and not an instrument for enabling the community to provide services for the benefit of its citizens. In the second place, by ignoring the large powers of administrative authorities in 1885, the still larger powers available by 1914, and above all the vast powers which were possible as soon as Parliament ceased to be dominated by Whig ideas, he was able to postulate individualism as a fundamental doctrine. The Constitution excludes wide discretionary authority; therefore it forbids large administrative powers; and therefore the “unauthorised programme” of the Radical wing of the Party to which Dicey belonged in 1885, the collectivism of the twentieth century parties, and collectivism generally, are unconstitutional. Dicey did not, of course, realise that he was postulating principles which were principles of individualism. He selected his material, and made false generalisations from that material, but he saw the Constitution from a peculiar angle.

His propositions condemn wide administrative powers. Wide administrative powers mean the exercise by administrative authorities of some at least of the major functions of the State. In the individualist constitution, the police State, the State “holds the ring.” It creates crimes, and it gives remedies for wrongs. The administrative powers of punishing crimes and granting remedies are exercised by and under the control of the Courts. Collectivism places the Courts in a relatively inferior position. The hegemony of the lawyer is broken. Moreover, the legal profession in England is, subject to its own “trade union” regulations, highly competitive or individualistic. For these reasons the “Rule of Law” is intensely popular among most lawyers. This popularity is increased by the current of contempt for foreign constitutions which runs, half submerged, throughout the book. English law, it is assumed, better protects the individual because it does not give him worthless paper guarantees which can be torn up like any other scrap of paper, but provides him with substantive remedies enforced by the Courts. Moreover, these Courts are free, independent and unbiased. There are no “administrative courts,” whose function it is, if we are to believe Dicey, to decide cases in which the administration is con-

²⁰ See Jennings, *op. cit.*, pp. 34-36, 44-51, 205-210, 252-263.

In Praise of Dicey

cerned in favour of the administration and against the citizen. Thus Dicey's views were in accord with the strongly nationalistic sentiments which pervaded English society until 1919. Patriotism insisted that the British Constitution not only worked better than other constitutions, but was intrinsically better. Dicey showed where the superiority was to be found.

Yet when all this has been said and Dicey's analyses criticised, it is still impossible not to recognise the great merits of his work. As a technician, he was superb, as his *Conflict of Law* bears witness. His knowledge of social phenomena, as his *Law and Opinion* shows, was considerable. The latter book, as well as his *Law of the Constitution*, proves that his faculty of generalisation was defective. The constitutional lawyer must study political philosophy, lest he be entrapped in logical fallacies. Dicey had paid insufficient attention to the subject. Nevertheless he was, as I have said elsewhere,²¹ "the first to apply the juridical method to English public law." Blackstone's incursions into this field were jejune. Austin was essentially a civilian. Pollock and Salmond have made a science out of English private law. Maitland's scattered contributions were of the greatest possible value, but his main work was done in the historical field. Of the last generation, only Dicey bears comparison with Laband and Jellinek, Duguit and Hauriou. His style, too, though somewhat verbose and repetitive, was eminently readable. His influence upon the development of public law in England has been immense. His authority to-day is greater than that of any other public lawyer; it is probably true to say that in no country have the views of a public lawyer of a past generation the same weight as Dicey's possess in England. Even his Whiggism is of great importance at the present day. For it cannot be doubted that some of the enthusiasts for collectivism, whether by the regulation and control of capitalism or by the development of socialism, sometimes forget that there can be no justice for the people as a whole if there is no justice for the people as individuals. Moreover, the Whig emphasis upon individual liberty acts as a check upon the development of authoritarianism. The result of Dicey's influence is that every extension of modern administrative law is regarded jealously to make certain that fundamental rights are not infringed in the process. The lesson has recently been brought home. For the present Government, possessing an enormous majority in both Houses of Parliament, introduced a Bill for the creation of new restrictions upon the freedom of opinion. The restrictions would have been derided by any dictator as utterly insignificant. Yet so great was the opposition that the Bill was drastically amended with the acquiescence of the

²¹ *The Law and the Constitution*, p. x.

Public Administration

Government. Conservatives like Sir William Holdsworth founded an opposition upon the "Rule of Law," and so came to the assistance of Liberals and Socialists who argued from other premises. Insistence upon individual liberties is, of course, traditional in England. Dicey gave emphasis and, one might almost say, permanence, to tradition.

Yet the "Rule of Law" is in the long view the least important of Dicey's three principles, for it is difficult to defend it—indeed, as the present writer thinks, it is impossible to defend it—except upon individualist premises. If the "Rule of Law" is finally cast upon the heap of discarded principles, Dicey's importance will remain. His analysis of legislative power and his study of constitutional conventions, though capable of criticism, must be considered by any public lawyer who desires to dig to the foundations of English constitutional law. He showed that the task of the constitutional lawyer is not ended when he has collected the statutes and digested the cases. He broke the tradition of quoting Coke's *clichés* as if they were eternal truths. He showed by his example even when he denied by his definitions that the study of constitutional law implies the study of government. He was, in other words, a jurist, not the least of the half-dozen jurists which nineteenth century England produced. For all these reasons it is fitting that we should celebrate the jubilee of the publication of a book which has so profoundly affected the examination of constitutional problems.

Some Reflections on the Administration of a Public Utility Undertaking

By FRANK PICK

[Address to the Institute of Public Administration, London,
March, 1935]

INTRODUCTORY NOTE

This address is written in support of a thesis and therefore its emphasis lies in one direction. When a new institution is launched everyone sees in it a means of advancement and those influences which would retard or stifle advancement are ignored in the general satisfaction with something new. Nevertheless, they are present even though dormant or weak.

The process of "entropy" must definitely conflict with the payment of the standard rates of interest upon the "C" stock of the London Passenger Transport Board, for instance. To maintain a stock at par is in fact the reverse of the process. Yet it by no means follows that the Board will fail in the discharge of its obligations for there are ameliorating factors which are not developed in the address, and the specific problem rests upon the undisclosed margin of safety which the Board enjoys in a London which still expands with new industries and added population.

THERE is wisdom in proceeding to sum up experience from time to time as by this means a new starting point is established and any existent contradiction or disharmony of aim or direction is brought into consciousness. The mind insists upon consistent and comprehensive plan into which all experience fits, though the plan itself may change with the years and even earn for the reformer a reputation for inconsistency.

The transfer of a heterogeneous group of passenger transport undertakings to the London Passenger Board and their welding into a unified and consolidated system of transport—a process still continuing—has directed attention to certain fundamental aspects of the administration of such a public utility undertaking which deserve consideration and judgment. This may justify an early summing up of the situation even when the Transport Board is not yet two years old; and this meeting is at least the provocative occasion.

First of all, there has been a review of the capital expenditure of all the various undertakings transferred to the Board and some en-

Public Administration

quiry into what it is that now represents such capital expenditure—assets tangible and intangible which have had a shifting value. The enquiry has gone further in an attempt to determine how the several current values have come about. One fact which becomes conspicuous upon an extended survey of that expenditure is that a capital account is never closed even though no enlargement or extension of the undertaking is occurring. There always seems to be a case to be made for some addition however small—an improvement here, an alteration there, a renewal at an enhanced cost somewhere else. There is thus a constant accretion to the capital expenditure, although the scope or extent of the capital assets is hardly affected or their intrinsic earning capacity scarcely increased.

In the ten years that preceded the formation of the Board the expenditure upon betterment undertaken by the Underground Group of Companies ranged from approximately £450,000 as a minimum to almost £2,000,000 as a maximum, year by year, and amounted in total to nearly £8,000,000 or over 10 per cent. upon the original capital expenditure. Is it then to be contemplated that capital expenditure upon existing and defined traffic facilities must increase at the rate of about 1 per cent per annum if those facilities are to be maintained at the rising standard of efficiency and convenience that time demands.

Lifts go and escalators come but the facilities for the carriage of passengers are not radically increased. The temperature of the tube railways rises with each summer. The heat accumulates and means must be found for its dissipation. Ventilation plants are increased in capacity. Automatic ticket machines replace booking offices and require, as an auxiliary, change-giving machines. Fresh invention shows that the signal equipment can be made more fool-proof and reliable. A taste for leaving this world by underground develops and the epidemic of suicides frequently deranges the services, so quite large sums are spent upon constructing inverts to the platform tracks in the stations to deter the depressed or to facilitate the undertaker. Every month a convincing case can be made for something more or something better.

The motor omnibus affords a good illustration of the process. In 1923 a 50-seater motor omnibus cost just upon £1,000. It had only a 4-cylinder engine and was shod with solid tyres. Its seats were plain and hard. It had an open top. In 1932 a 56-seater motor omnibus cost just upon £1,500—the additional 6 seats represent an increase in cost of 50 per cent., though allowance has to be made for a 6-cylinder engine giving ampler power and speed, pneumatic tyres, cushioned seats, covered top. It cannot even be said that the earning capacity has increased in the ratio of the 12 per cent. attributable to the extra seats for they are only of avail in the hours of peak traffic.

Administration of a Public Utility

Indeed the increased cost is represented by the major improvements mentioned and a number of minor improvements and refinements of all sorts. Every omnibus now has a self starter. The larger engine seemed to demand it, certainly the driver did. Every omnibus now carries a substantial electric lighting plant, for the passenger must be able to read his newspaper in comfort. The driver is also enclosed against the asperity of the weather. The progress is always towards greater cost, never towards cheapened production. If anything arrives which would cheapen production it is always greeted as an excuse for embarking upon some fresh extravagance in design or equipment which has been held in suspense. Admittedly these improvements may lead to added popularity and custom, but it is fair to say that such added custom may not altogether keep pace with the extra cost entailed.

Even on the main line railways that have not been remarkable for active change or development owing to the lean years of depression and have pursued a stalwart conservation of their resources, the capital cost per mile of railway open for traffic has grown in the last ten years by £1,000 to £1,500, which must be supported by the earnings from a largely diminished traffic density.

In spite of this noticeable rise in capital expenditure there is an obsolescence that overtakes an undertaking that no ordinary reserve fund can catch up. This capital against which so much is said is a very perishable commodity. How little of it survives, say, three generations? It was an interesting and timely study. And this obsolescence even acts as a factor promoting demission, for it may make an undertaking resistant to change. Tramways are an apt illustration. Since 1870 how little have they altered, and now no one has a good word for them and they are condemned even for their virtues and will perish without an eulogy or a regret. Yet they still perform valuable public services, carrying large volumes of passengers at fares generally lower than those applying on other forms of transport.

Second there has been a review of the levels of fares because these have not been uniform or equal. Looking back it has become apparent that the general level of charge has been slowly falling. This is to be attributed to two causes, a slow revision of fares downwards and the introduction of fares involving concessions to the passengers. There are always stray anomalies even in the best conditioned fares' systems and these anomalies set up a sort of lesion in the structure which results in fare after fare breaking down in an attempt to evade complaint and discrimination. It is a true pathological state. When the rate of charge varies between one fare and another, the tendency is always for the lower rate to oust the higher rate. It follows a well-known economic law. It is the process having least resistance. On the

Public Administration

Underground Railways the average fare paid per passenger per mile was .73d. in 1923 and over the succeeding 10 years it slipped to .71d. then to .70d. then to .69d. and finally to .67d. per mile. Upon the London County Council tramways the average rate per mile for all passengers carried is not much more than a halfpenny, although there still remains some pretence that the basic rate of charge is round about a penny per mile. The Main Line Railways have been the chief exponent of the other cause of decline. While maintaining their standard fares, they have superimposed upon them so many exceptional and favourable fares that by 1933 only 17 per cent. of their total traffic was carried at the standard rates and the average fare per passenger per mile has fallen from 1.02d. to .74d. over the ten years or by 27½ per cent. Much of this declension is inconsidered. It happens from the ordinary routine of the commercial office dealing with the questions which daily come streaming in—requests for new rates, adjustments to meet competition, protests by economically minded travellers. Somehow there seems to be no staying the process, yet it stealthily impairs the earning capacity of the undertaking.

With the coming of the Transport Board, the problem of equalisation of fares has become of major importance, for the strain in the fares' system arising out of the merger of such diverse undertakings has become exaggerated. Must the solution come by a steady levelling down or must not some levelling up be attempted to maintain a reasonable balance? Yet the local authorities as guardians of the public interest watch the suggestion jealously and suspiciously. There is no easy way of satisfying them of the justness and rightness of the proposal, for there is no simple mathematical correlation between a level of fares and a volume of traffic receipts, the passengers with wills and wishes of their own and their own notions of economics intervening. The economic man, rather than demonstrate the correctness of some economic law relating to supply and demand, now saves his penny. He walks a little more and pays a little less.

Even if some crisis in affairs leads to a revolution in the basis of charge and the general level is raised, it is only a momentary arrest, for the process of attrition seems to commence immediately and once more the level slowly falls.

By way of corollary attention might also be directed to the steady demand for more or better service which results in a journey or trip being added here or there, a journey or trip extended or duplicated, with the consequence that there is a correspondingly steady increase in the mileage run for the service of the traffic and as car miles are the appropriate measure of expense, expenditure

Administration of a Public Utility

goes up with the car mileage. Against all this there is compensation to be derived from the co-ordination of services, which has never been practicable until the formation of the Board with its quasi-monopoly of the public passenger service. This should enable some higher earning capacity per car mile to be attained as a set off.

Third there has necessarily been a review of the wages paid, because with active and watchful trade unions it is impossible to pay different rates of pay for the same class of work without cogent reason. The administration becomes keenly alive to the fact that there is and always has been a universal restlessness about rates of pay and conditions of employment. They are the product of long and divergent series of negotiations with one trade union or another. They start in disequilibrium and never by any chance arrive at a stable position. It might almost be thought that the trade unions met together and concerted measures so that the questions arising should not be dealt with in like ways or proceed to like solutions. The comparative mode of approach to a labour problem has almost been developed into a fine art of exploiting disparities. At any rate, a trade union is never at a loss for a precedent for any proposal brought forward. The result is a steady process of attrition once more.

Again it is easy to grant small concessions where the cost does not bulk large to deter generosity. Yet the accumulative effect of a succession of small concessions upon the net earnings or profits of an undertaking may be burdensome and distressful. Even where major issues are raised the course of negotiations proceeds from stage to stage by adjustment and accommodation upon both sides until the ultimate issue measured in monetary terms seems insufficient to justify an appeal to the strike weapon and the undertaking usually makes the final sacrifice necessary to ensure industrial peace. The loss resulting from the disturbance of a short strike soon outweighs the cost of the demand to be satisfied.

The struggle for existence suffers transformation but persists. Trade union negotiations—or failure of negotiations perhaps—almost seem to be the counterpart of the rapine that disgraces Nature to the impartial scrutineer. Certainly out of these negotiations, fresh human characteristics and qualities arise uppermost and play a dominant part in establishing a new human type. It is not necessary to ask whether they constitute progress, for progress with any moral significance is an accident rather than an essential in development. Competition continues in business as it continues in Nature in spite of increasing interferences.

It is difficult without elaborate statistical calculation to measure the extent to which the accommodation goes, but if the employees

Public Administration

of the Board are taken as a whole an index figure for the actual monetary rates of wages paid weekly shows that in the last ten years they have risen from 100 to 108 points, in spite of the continuous and remarkable fall in the cost of living. If then the index of monetary wages is corrected by the fall in the cost of living to reflect the real wages, it is found that the index figure has risen from 100 to 132 over these ten years, representing a real increase in average wages of 32 per cent. On top of this there are the concessions limiting the number of spreadover duties, the allowances for overtime, the grant of holidays with pay, privileges of all sorts.

Thus, once more there is an insidious eating into the margins of profit or earnings of the undertaking and once more there would appear little chance of the process being stayed. Again, where some crisis seems temporarily to reverse the process, the results in the long run are, if anything, worse rather than better. The policy of cuts in wages to meet the effects of the depression in trade and industry have been of doubtful benefit. The immediate relief has had on progress and by inevitable readjustments which have raised fresh issues of parity of treatment.

It may be convenient to look at a counter movement without which the gradual advance in wages could never have been sustained. Bit by bit machinery is developed and perfected to dispense with employees. Electricity is the most adaptable of servants by good fortune, and is readily carried from place to place to do its work. For every 100,000 car miles run on the underground railways there used to be a staff of 15 people. In ten years it has been reduced to 10, or by 33 per cent. It is a remarkable technological achievement. Even on the omnibus side where every vehicle in service, almost, involves a driver and conductor at every moment of operation, the staff employed for every 100,000 miles run has fallen over the last ten years from 17½ to 16. But this achievement is not accomplished without the writing up of large amounts of fresh capital. The machinery and equipment grows more and more costly and its life by reason of its elaboration grows less and less, so that the charges both for interest and for depreciation or renewal become heavier. Still economies flow from these changes, and these economies are usually shared with the staff. This has become an accepted principle.

There is, of course, another aspect to these reflections of an administrator. The sociologist sees in all these changes a steady rise in the standard of living. He takes great credit for it. He welcomes this advance in wage rates. His plans for social amelioration depend upon it. He builds up the idea of progress upon it. By governmental agency he proceeds to effect still further adjustments. The

Administration of a Public Utility

cost of the social services which ensure in the main for the benefit of the workers has increased within a generation from £1 10s. to £8 16s. per head, largely at the charge of industry. Everywhere these equalizing and distributive tendencies may be found in action.

The idea of progress is relatively modern, and it is deeply rooted in modern business. Take one phase of it. In a public utility undertaking large numbers of employees are engaged upon scales of wages advancing increment by increment. It is no longer a question of the value of the work performed. Not only is there advance within a scale but there is promotion from scale to scale or from class to class and even this is not altogether governed by the value of work performed. After a while there are some employees who get caught and held in the trammels of the scales. They are then described as stagnation cases and attempts are made to weaken the rigidity of the scales and to modify the application of them in their favour. Always there must be a door open for progress; the normally constituted human being of these days cannot endure acquiescently the closed door.

It seems almost revolutionary now to suggest that there should be a classification of the work to be done and a corresponding classification of payment for work. The conception seems to have gone all astray. What is to be the effect upon a public utility undertaking which is particularly vulnerable to the influences arising from a rigid staff structure? What place is there permanently in modern business for the hopes and aspirations of the human material employed? Must the idea of progress be abandoned or modified, or can it be indefinitely pursued within the limits of sound and solvent business?

The converse of all this is another drain upon the resources of public utility undertakings.

It might be possible to multiply illustration but there is enough to support an argument. In many ways, by increased capital expenditure year by year, by improvement and development in the service provided season by season, by a persistent practice of fare adjustment and a ceaseless pressure for amelioration of wage rates and conditions, the position of the Transport Board, as a representative public utility undertaking, is impaired and its resources dissipated often unobservedly or unintentionally. It is a disturbing reflection and stirs the imagination for it is not a peculiar phenomenon.

Those who read the popular exposition of modern mathematical physics will have come across the conception of "entropy." Everything always tends to level or average out. The solar energy

Public Administration

radiates abroad and spreads equally throughout the universe. The higher forms of matter like radium break down into baser forms like lead. The face of the earth wears slowly away and the mountains are converted into sandbanks. The end of all things is a lowest common denominator and before that is reached the peopled world as it is must have passed away. Is not this the parallel to the process that is to be found in the administration of a public utility undertaking? Are not all the movements described only tending to reduce business to some lowest common denominator? Yet is not this a tendency to be arrested, but how?

Even in nature there is, it seems, one method of evasion. Clerk Maxwell discovered a "sorting demon" whose task it was by some selective process to prevent that general averaging of everything. So in administration there are in the higher ranks of officials "sorting demons" whose task it is to resist the process of frittering away the resources of a public utility undertaking either by concessions and variations in charge which decrease revenue or by compromises and adjustments in costs which increase expenditure.

These "demons" are an essential part of the organisation. Somebody must be charged with the task of checking the constant accretions to capital expenditure not fully covered by increased income flowing therefrom. Somebody must be charged with the task of checking and controlling wage negotiations and labour conditions unless the cost per unit of service rendered can be maintained at a satisfactory standard by some compensating means. Somebody must be charged with the task of supporting a level of prices unless by a lowering of such level such additional traffic or custom can be attracted as will in itself justify the course and yield an equal if not a greater measure of profit. They are, as they say, thankless tasks. The most important of these "demons" is that which sees to the co-ordination of services. This is strictly a sorting process which raises the general level of earnings per car mile and strengthens the undertaking.

But while these "demons," if efficient, can arrest the process of "entropy," they cannot reverse it. There would seem to be something relentless about the principle. The law of thermodynamics turns out to be indeed a law of death.

Yet just as this is an expanding universe which may, if it were understood, bring compensations, so with minor reversals there has for a long while been an expanding business, until those concerned with it have been tempted to count upon expansion accumulating year after year, so that their plans and policies depend for their justification and success upon an unflinching growth. The London Passenger Transport Board optimistically reckons upon the steady population and development of its area undeterred by the setback of these last

Administration of a Public Utility

years which have only served to mark the possibility that a complete readjustment of outlook and treatment were necessary in a static metropolis. There are, however, many warning signs that this growth in magnitude and complexity which is pleasantly called progress may be arrested and then the various processes of attrition and degradation to which reference has been made will either work their ruin or have to be arrested as well. This would lead to a period of unrest and of stagnation which it is ungrateful to contemplate so it may be left with a mere note of caution. Either way it is death.

Turn aside to consider in detail how the law of averages operates in the administration of a public utility undertaking. It is one of the novel and striking features of day to day management. Under private enterprise where there is no one to question what is done it is always open to the management to make decisions that are not necessarily consistent one with another or that are not necessarily governed by relation to some ruling principle or other. There is an arbitrariness about private enterprise which is both a defect and a virtue, which attracts both criticism and commendation. An arbitrary decision may alter the course of development, may shift the line of progress for better or for worse, but with an able and competent manager usually for the better. It disturbs the even flow of affairs, raises debate, stirs thought, awakens feelings, in a word creates fresh life. The deadliness of the administrative machine even when most efficient is shaken off. But with a public utility undertaking liable to be called to account for its action, subject to interrogation by inquisitive and irresponsible guardians of the public interests, can the freedom and even the healthy perversity of private enterprise be fully sustained. It is questionable.

Take by way of illustration a common class of case arising for decision. How some member of the staff shall be treated in some misfortune or misdoing, some odd or exceptional circumstance that may have beset him, whether it lead to disciplinary or benevolent action. Always the resort is to precedent. What is done or not done for one member of the staff must be done or not done for all. At once there is an inability to meet special cases. No rule or regulation covers them. It becomes impossible to be generous. It becomes equally impossible to be harsh. There can be no special rewards to some, although mankind is somehow framed with a gambling instinct uppermost that seeks a gain that is not deserved and does not begrudge its incidence. Yet such special rewards are known to have a general stimulating effect upon those who miss them even more than upon those who gain them. Equally there can be no special punishments. To make an example of one man to deter the rest, to visit upon one man the sins of his fellows is equally impossible. The

Public Administration

administration of justice cannot contemplate such erratic conduct although it is known to be a most effective disciplinary weapon and to save on balance much scattered disciplinary discomfort and pain. The organisation of a system of judicial hearings, with appeal from stage to stage, almost certainly prevents the decision that looks past the particular case to the good of the service as a whole.

Or take by way of illustration another class of case that must exercise the mind of a prudent administrator. Private enterprise may buy whatever it pleases and on whatever terms it pleases. A public utility undertaking, being open to challenge on preferences, on favouritism, on even baser grounds, protects itself by going to tender and accepting the lowest tender, other things being equal. Yet this is maybe the least efficient way of buying. Certainly where the trade know that there are rules in the game of buying they will be tempted to take advantage of them. They may even concert to tender at a generally higher level of price. The steps towards a controlled price are made more easy of attainment. This is a disturbing feature and one speculates as to the weapons to be employed in combatting it and as to the technique to be developed in circumventing it.

Where the actions and decisions of an undertaking are open to question and review by an uninformed and possibly suspicious public, there is inevitably a tendency to develop a rigid protective structure and method which may be economical and efficient but none the less is deadly, for the life of an undertaking turns not upon its trueness to type, its accord with convention, but rather upon its variation from type, its adaptation of convention. The laws of business are similar to the laws of nature. The analogy can be traced and formulated at all points. The wholly virtuous person is impossible to live with, as everyone knows. Perfection is only possible at the price of change and progress. Perfection is the enemy of sound administration. A spice of vice, a spark of irrationality, a fondness for inconsistency, a flash of genius—are they not all desirable, even essential, to the good conduct of administration? Yet the folk of the “lowest common denominator” order are always opposed to them. Parliament, a leading exponent of democracy, looks askance at them in its proceedings. There is nothing worse than a charter or a constitution. When that is attained then a term is set to existence, for from the rigidity and formalism that it implies, death slowly creeps in. The seeds of decay are inherent in it. So one might be tempted to a wider speculation. Nature is the record of the rise and fall of species. History is the record of the rise and fall of civilisations. There is “entropy” in civilisation and there is “entropy” in business. Everywhere this common degradation of energy and material proceeds until decline gives place to

Administration of a Public Utility

revolution and destruction. Many have attempted to explain the causes, but looking at the problem in the light of the tendencies which the establishment of the London Passenger Transport Board had made to jump into consciousness, there is little doubt that they have all proceeded from some process of "entropy," some little observed but insidious movement towards levelling downwards. Efficiency practised as a fine art can be lethal. Some communistic influence towards the "lowest common denominator," whether in the universe, or in society, or in business, is none other than ultimate death. The self-seeking incalculable individualist is alone the harbinger and promise of life. It is a melancholy conclusion in some ways. It means that this death to species, to civilisation, to public utility undertakings to bring it right home is necessary and inescapable. There is, however, a final cheering reflection. Out of death has come fresh life. With the overwhelming of one civilisation, another has taken birth. Fortunately there has been renaissance. When the "entropy" has gone so far that on the surface all variety appears killed, somehow some hidden reserve of force bursts up and flowers again, in prodigal profusion, and the "entropy" is to be repeated. Generation succeeds generation as bearers of the human tradition, so institution must succeed institution as bearers of the business tradition. The London Passenger Transport Board is young indeed but age will come upon it and it must know when to retire if it would be happy and well remembered.

The Development of Local Government During the Past 50 Years

By SIR MONTAGU H. COX, LL.B.

[*Address to the Liverpool Regional Group of the Institute of Public Administration, February, 1935*]

THOSE of you who have read John Austin's famous lectures on Law will always remember his insistence upon the necessity of defining terms. I make no apology therefore for commencing this paper with a discussion of the meaning of Local Government. Unfortunately for the clear and tidy thinking so necessary to the logical mind and so essential to the scientist, one is here faced with grave difficulty. The essence of definition is certainty. The essence of local government as that of humanity is variety. As easy to define the one as the other. Perhaps even easier the latter, since humanity remains ever the same while into local government there enters the further disturbing factor of constant change. The conception of local government of even fifty years ago is by no means the same as to-day, and all indications point to a still different conception fifty or even fewer years hence. While, however, this may cause us to despair of definition and thrust us inevitably upon mere description, it at least justifies the somewhat ambitious sounding title of this paper. When I was a young man newly entered into the local government service controversy ranged hot upon the question what services normally entrusted to local authorities were properly local, what preponderantly local, what properly national but locally administered. In all the learned disquisitions by the pundits of the day, I never heard or saw referred to the necessity for definition stressed by Austin, nor even any attempt at description beyond the essentially vague phrase just quoted—services normally entrusted to local authorities. Nor am I going to set myself up after reams of writing as the one to have probed the matter to its root. For the purposes of this paper—and possibly for all practical purposes save those of strictly scientific and historical accuracy—it will be sufficient for us to take the meaning of local government in this country through the ages to be just those powers and duties of a public character which are severed from the national and delegated to the local government authority. True this

The Development of Local Government

is only a description—and not too definite at that—but amongst other advantages it does, as I have already suggested, justify one's speaking of developments between any two points in history without the necessity for diving into happenings or circumstances falling outside those points. Thus far in extenuation of my attitude and in explanation of my subject. One more plea. Of course I realise that to deal thoroughly with that subject, however narrowly described and circumscribed, would not be possible within the limits of this paper or of a hundred such. I shall merely try to give you the broad impressions made by the course of events upon one who was in the thick of the struggle for over 40 years. These impressions will perhaps be out of focus—it is the detached observer who should be best able to generalise. They will nevertheless be supported by such understanding of the details as experience in the arena may give.

Developments in the realm of local government, as in other cases, may be of two kinds—in form or in substance. Local government (and particularly London government, in which my experience was gained) has developed during the past half-century under both heads. View them as the construction of a building. Form will include the edifice itself, its architectural features, the number of its storeys and of what they consist. Substance will include the occupants and their characteristics, its furnishings and equipment and something, perhaps, of the possible changes of tenancy of the various floors. Well within our period comes the county charter—the Local Government Act of 1888. As the first instalment of legislation affecting form this measure stands out as the deliberately planned coping stone of a new building. Curious that the coping stone should have been the first care of our legislature you will say. Admitted, but how else will you describe it? You cannot deny that the county and the county borough are at the top of the local government building. They have the widest territorial scope and their councils the greatest powers. The county council has some duties and powers in relation to the lesser local authorities in the county, can delegate authority to them, and regulate their scope and action in certain respects. I am not criticising the method in this case of building from the top, but merely calling attention to it. The reasons for its adoption are as well known to you as to me. The building was not being started afresh, but was being reconstructed on foundations having their footings deep in the soil of centuries, so that one notes the fact as one of development alone. In one respect only was a part of the existing foundation departed from. Counties as then geographically arranged were in a few cases divided and one new county created which still has no geographical existence. I refer here, of course, to the County of London and, by the way, I may here and there have

Public Administration

to mention this little county specially—not because of my special connection with it, but because it has so frequently been dealt with separately by the legislature. From another point of view (which I mention now to dispose of once for all as it really is not a point of development but the reverse) the Local Government Act of 1888 is epoch-making since it effected very largely, though not entirely, the dissociation of the administration of justice from the other type of local administration. I say largely because although the dissociation is complete in other respects counties are still left to bear the burden of the cost of some part of the administration of justice while that administration is otherwise controlled. As I say, I mention this to dispose of it once for all and do not propose to enter into any remark upon the fact other than to note the persistence of an idea even though the basis of that idea has been destroyed. The remaining storeys of our local government edifice were dealt with six years later when the Local Government Act of 1894 completed the building as it is now known by the transformation of its floors into urban and rural districts and parishes. Thus the country is completely covered with a local government pavilion whose ground floor is the parish, whose first floor the rural district, whose second floor the urban district, whose third floor the borough, and whose top storey the county and county borough. I dare not say which is back and which is front! Whatever may have been the starting place in the building of this pavilion, we can at least pride ourselves that its accommodation is ample and its form symmetrical and even stately. The building too is occupied by substantial tenants—the parish council, the rural and the urban district council, the corporation by its town council, the county and the county borough council. Comprehensive and logical! Moreover provision exists for what may be called changes of tenancy within the building. Thus a parish, a rural district, an urban district, and a borough can each obtain promotion on cause shown, and after due enquiry and on the admission of the claim their councils may take their places on the floor above. Another aspect of our building may perhaps be taken note of here, although it is perhaps rather an aspect of our building's tenants than of our building itself. I refer, of course, to the personal composition of our tenants. In this matter development has been fairly consistently in the direction of the direct election of members by the ratepayers or burgesses as a whole, though the course of discussion has been rather like the course of the steamer chased by the U-boat. And this trend of discussion has left its mark in what one must now call attention to, though it may be said to be outside the scope of this paper. Quite apart from the management of many joint undertakings by means of fully authorised joint boards or committees,

The Development of Local Government

local government has suffered reduction of scope from the natural growth of various services beyond the limits of locality, and nationally appointed or co-optative boards have been set up to deal with them. Two illustrations will serve to clarify my meaning. The Metropolitan Water Board formed by co-option from a large number of London and circa London local authorities in 1903, and the recently formed London Passenger Traffic Board, whose members are appointed by the central government and by an electoral college specially nominated by Act of Parliament. It would not be within the scope of this paper to do more than mention this development. But I would put to you a question or two for your investigation. Is this a development or a negation of local government? And to what extent are the present subjects of local government capable of similar treatment? I have put these as two questions, but you will readily see that they are really only the same question in alternative form. The answer to them will decide the future of local government as we now know it. But whatever the answer, we as officials need not fear—the necessity for the trained and skilled public official cannot grow less. And by the way our Institute has still a future of great public usefulness before it. Pity it is that our younger colleagues do not yet realise this and give the Institute the support which it deserves. Perhaps this is the wrong audience to which to address these remarks, but you will no doubt pass them on for what they are worth, and it may be that this appeal for administrative foresight—forgive the tautology—from one who is now an old stager may in other ways reach those to whom it is made.

Now as to the furniture and equipment of our building. In other words, what about the powers and duties of local authorities? How and to what extent have these changed and developed in the past half-century? Of course, I cannot deal with such a question in detail. To do so would require a volume and then some. Still I think the question can be answered in broad survey, although everyone may not agree that the answer is correct. Nor will I claim absolute accuracy, but only that measure of truth which is compatible with broad generalisation over a field in which variety of powers and duties is rampant and is caused by the inevitable human as well as the physical element. Have you ever looked back in your mind over the history of this country, and particularly over its social history? If so, as I don't doubt you have, has it ever struck you that a graph describing that history, whatever phase you may take, would take the form of waves? True it is that taking a more or less definite standard you would find your sea-level higher or lower at this end than at your starting point. But this does not destroy the simile and to me the fact (as I believe it to be a fact) holds great

Public Administration

hopes in every direction. However, this again is beside the point, since I do not propose to use it in outlining the developments of substance in local government over our given period.

What then were the leading characteristics of subjective local government fifty years ago? Always speaking broadly, though not unmindful of that variety amongst authorities which lends spice if not homogeneity to our system, I should say that in the year of grace 1884 the powers and duties of local authorities were those which deal primarily with *material* things. Building bye-laws, lighting of streets, systems of drainage, gas, electricity, upkeep of roads, improvement of streets, provision and maintenance of bridges, collection and disposal of house refuse, water supply, provision of parks and open spaces and the like. I do not forget that counties (other than London) and boroughs had control of the police, through whom contact with the individual was close and primary. But I do not think that this fact is sufficient to destroy my generalisation. Nor am I prepared to admit as valid the suggestion that the care of the insane forms a definite exception, since the legislature was so careful not to give this, but only the provision of necessary buildings for the purpose, to the local authority that it took many years of endeavour on the part of the London County Council to obtain that duty. You all know by what means this result was obtained, and that asylums committees were, and were meant to be, to all intents and purposes authorities statutorily independent of the local authority who appointed them, and had to foot any bill that might be left after the guardians had been more or less duly charged. From this substance of materiality developments in local government have, as it seems to me, proceeded steadily towards the person as a unit and a preponderant unit in administration. A tremendous development surely—from bricks and mortar to the life of man. Surely that if nothing else would justify a clamorous cry for the higher training and administrative skill of municipal officers for which our Institute stands. So far, however, I have only stated my case. You will naturally expect it to be supported by illustration, even though you may in the end think that what I put forward falls short of absolute proof. The first step was not long in the taking. Following the report of the Royal Commission on Housing appointed in 1885, of which the late King Edward VII, then Prince of Wales, was a member, came the Housing of the Working Classes Act, 1890. It is true that this was not an entirely new Act, but rather a codification and improvement of three former Acts, known as Cross' Act, Torrens' Act and Lord Shaftesbury's Act, corresponding to Parts I, II and III of the Act of 1890. But it was the first Act under which housing schemes were *completely* carried out by local authorities, and it carried the germ of that responsibility

The Development of Local Government

for the individual through the relation of landlord and tenant, which is only of recent years being realised in the appointment of special officers in connection with their care and management. I claim, therefore, that the Housing Act of 1890, though it did not do so on the instant, did potentially initiate the development of local administration towards the individual human unit. Nor was there in this case any attempt to by-pass the local authority and to entrust the duty to a statutory imperium in imperio.

Twelve years later comes a far clearer and more definite development in the direction I have indicated. To the year 1902 belong Mr. Balfour's Education Act, which transferred to local authorities the duty of providing elementary and the power of providing or subsidising the provision of higher education. I will not split hairs as to whether this is or should be a national service as upon the Continent, or as to whether it is merely a national service locally administered with national control, or upon any other purely academic controversy. For my present purpose, I claim it as an outstanding instance of development along the lines already indicated. At one stroke of the legislative pen there was confided to local authorities the greatest human and individual trust on earth—the training and equipment of youth for its battle with life. Nor was this all, for the provision of adult education was included in the powers then given. Nor was even this all. Medical inspection and treatment and feeding have followed, provided in the guise of education. Can there be a more striking indication of the change developing in the subjective character of local authorities' powers and duties? It was my privilege to have some hand in the transition of administrative outlook necessitated by such a radical change of subject, and the difficulties of this were by no means lessened by the inability of some administrators to understand that methods and procedure admirably adapted to the material subject must undergo severe mutation when their subject was the human entity. It is not necessary for me to quote figures to my present audience—it will be sufficient if I state simply that by this time the change had so far progressed that local administration was rather more than fifty-fifty material and individual.

Following the Education Act, public health legislation proceeded upon similar lines, and if I do not quote chapter and verse to show how in that sphere the change from the general and material to the individual and human took place, it is not from lack of evidence, but because I wish to paint only with the broad brush. Come we now, therefore, to the latest Local Government Act—that of 1929. Again here I was privileged to take some part in the transfer of the work of the guardians, and most happily found no such difficulties as I

Public Administration

have referred to in connection with education. This Act completes the development of the subjective side of local government from the material to the individual. And it did so in two ways—first, by transferring the care of the needy and the administration of outdoor and indoor relief to the local authorities; and, secondly, from the health side, by completing that development by placing upon them again the care of the individual sick. I say again, because I am not unmindful of the fact that so far back as 1875 local authorities have had power to provide hospitals. Since, however, that power had hardly been exercised, while the present power must be operated, I think I am justified in citing this as a development within our period. With this mighty example no one will deny that the balance of subjective local government has been completely turned, and, while in 1885 local administration was concerned chiefly with the inanimate, to-day it is overwhelmingly concerned with the living individual. A social revolution effected as usual in this country by easy stages without fuss—and may I add in all probability quite unconsciously of its ultimate consequences.

Some Notes on the Financing of Capital Expenditure of Local Authorities

By J. MITCHELL
City Treasurer of Leeds

[Address to the Leeds Regional Group of the Institute of Public Administration, December, 1934]

I. INTRODUCTION

THE indebtedness of local authorities impresses one with the importance of municipal finance. The total indebtedness and the rapidity of its growth in recent years have given ratepayers and financiers much to think about, and caused suggestions to be made that local authorities should, wherever possible, avoid borrowing and substitute therefor a policy of "pay-as-you-go."

Indebtedness of Local Authorities at 31st March, 1932

	Gross outstanding loan debt at end of year	Amount standing to credit of sinking funds	Net outstanding loan debt at end of year
	£	£	£
Rate Fund Services ...	878,767,050	57,809,842	820,957,208
Trading Undertakings	478,046,120	33,307,546	444,738,574
TOTALS ...	1,356,813,170	91,117,388	1,265,695,782

whereas at 1919, shortly after the close of the Great War, it stood at £488,464,092—an increase of net debt of £777,231,690 in 13 years.

	£
Rate Fund	639,675,522
Trading	172,952,800
<i>Deduct:</i>	
Balance (indivisible) ...	812,628,322
	35,396,632
	<u>£777,231,690</u>

Public Administration

The loans sanctioned for purposes other than Housing during the last five years is some evidence of the rapid growth of local authorities finance.

Loans sanctioned in England and Wales by the Ministry of Health during the five years ended the 31st March, 1934 (excluding loans for Housing purposes)

Year ended 31st March	Loans sanctioned for capital purposes		TOTAL
	Rate Fund services (excluding Housing)	Trading Under- takings (excluding Electricity and Transport)	
1930	£ 33,531,860	£ 4,536,484	£ 35,068,344
1931	41,785,629	5,579,805	47,365,434
1932	30,305,788	4,069,698	34,375,486
1933	17,578,093	2,402,809	19,980,902
1934	17,263,002	3,081,463	20,344,465
	137,464,372	19,670,259	157,134,631

2. "PAY-AS-YOU-GO" POLICY

The "pay-as-you-go" policy has received a good deal of attention of late.

There can be no doubt that if you could afford to pay as you go it would cost considerably less than under the present system of borrowing because you would exclude all interest from your liabilities but, as money is said to be worth what it costs the borrower, it is just from which angle you look at this question as to whether there is any real benefit or not.

It is certain that to strictly adhere to a "pay-as-you-go" policy would hold back social progress. If the "pay-as-you-go" policy had been insisted upon throughout the history of local authorities we should not be enjoying to-day many of the great social amenities which have been secured by borrowing.

The advantages and disadvantages of the "pay-as-you-go" policy are admirably set out by Mr. J. H. Burton, Borough Treasurer of Stepney, in his last book on the Finance of Local Authorities. I therefore, with apologies to him, quote his arguments.

Advantages:—

(1) No debt is incurred and, consequently, no loan sanction is necessary.

(2) There is no need for borrowing powers to be possessed.

Financing of Capital Expenditure

(3) Simplification and economy in records result owing to absence of sinking funds, dividend warrants, loan registers, etc.

(4) The balance sheet discloses a very strong position, *i.e.*, assets possessed without counterbalancing liabilities.

(5) Rates are lower because the average capital expenditure over a period is less than the average debt charges (but see (3) under "Disadvantages").

(6) If carried out universally by local authorities and to the fullest possible extent, there would, owing to the absence of demand for loans by these bodies, be a greater amount of available money for industrial purposes and for loans to the Government (if they did not do likewise) and thus money would be cheaper, which fact *ought* to be reflected in cheaper borrowings by the Government and thus in consequence of lower taxes, cheaper commodities from the manufacturers, and so on.

Disadvantages :—

(1) It is practically impossible to charge large items to revenue account without seriously affecting the rates. If all capital expenditure were so treated as it was incurred, rates would be subject to violent fluctuations.

(2) Many schemes, both necessary and economical, would have to be abandoned by reason of (1), and progress would be hindered if not entirely stopped.

(3) If a steady and gradually increasing proportion only of new capital expenditure be charged to revenue until such time as the existing debt is redeemed, an additional burden is put on ratepayers.

(4) To the big ratepayers to whom money is worth more in their businesses than the local authority has to pay on loans, it is decidedly uneconomical. It may mean a loss of 10 per cent. to gain 5 per cent. Even to the small ratepayer the "fructification" principle applies equally in theory. The loss is not so great only so long as he does not invest or use his money to advantage. If he buys National Savings Certificates he would get a greater return on his money than he would save in reduced local rates.

(5) The alleged saving of interest to the Council would, in most cases, be less than at first imagined. Much of the income tax set off would be lost. For example, to the extent to which interest on loans is paid out of profits brought into charge, the tax deducted before payment of such interest may be retained. This would be lost if no interest were paid, and thus the anticipated 5 per cent. saving would really only be equal to 4 per cent.

(6) The system is wrong from an accountancy standpoint inasmuch as one year's revenue account is charged with expenditure

Public Administration

that is only partly attributable to it, while the next period bears no share of the cost of assets bought in the previous year but which it is fully benefiting by. Though it may be argued that, taken over a period, each year would stand a fair average, it is reducing the accounting procedure to a system of receipts and payments, and a similar argument that the average would be quite good enough could equally well be adduced to support a system of receipts and payments accounting (embracing all its disadvantages, inaccuracies and dangers) against the more scientific basis of income and expenditure.

Whether money should be raised by loan or out of current revenue depends upon circumstances, and no hard and fast rule can be laid down.

If only a small amount of money is required it is invariably more economical to raise it out of revenue, and the financial regulations of the more important authorities usually provide that relatively small items of capital expenditure shall be so met.

On the other hand, it must be understood that where the works are extensive and costly, borrowing is unavoidable and is, in fact, the only practicable method.

It will be appreciated, therefore, that as to how far capital expenditure shall be defrayed out of revenue is a question of policy for the local authority to determine. The position is not quite so acute regarding revenue-producing undertakings, but to avoid the disturbing influence of violent fluctuations in the rates the ideal practical system appears to be one which combines both methods.

The financial resources of a local authority should not be overlooked in this connection. For example, a rate of one penny in the pound yields to the London County Council approximately £250,000, in Leeds over £12,000 and in Dewsbury £1,100. Whilst the effect of charging capital expenditure of (say) £25,000 to current revenue would be negligible in London it would mean a twopenny rate in Leeds and almost two shillings in the third instance. In heavily rated areas also there is a natural reluctance to do other than borrow to keep the rates within a reasonable limit.

Some authorities have partly solved the question of equalisation in recent years by obtaining power under a local Act to establish a capital fund which is credited each year with the proceeds of a limited rate (say 2d.) to meet comparatively small capital expenditure. A similar proposal was incorporated in a Leeds Bill a few years ago but subsequently withdrawn after being defeated on a poll of the electors.

3. POWER OF LOCAL AUTHORITIES TO BORROW

The power of local authorities to borrow is derived from general Acts of Parliament or from local Acts promoted in advance of general legislation to meet local circumstances, it being understood, of course,

Financing of Capital Expenditure

that local authorities have no power to perform any acts or provide any services other than those authorised by law.

The general law was revised and modernised by the passing of the Local Government Act, 1933 (a "consolidating" Act), which provides that a local authority may borrow for any of the following purposes:—

- (1) acquiring land;
- (2) erecting buildings;
- (3) execution of permanent works and provision of plant, etc., the cost of which ought to be spread over a term of years;
- (4) any other authorised purpose.

Unless a local authority has the direct authority of Parliament, *e.g.*, under a local Act, to borrow money for a specified purpose, the sanction of a central government department is a condition precedent to the raising of loans. The principal sanctioning authority is the Minister of Health who deals with practically all loans of local authorities except those relating to electricity and transport undertakings.

In applying for sanction to borrow the local authority is required to submit plans, estimates and full details of the proposal, and the Minister may hold a local inquiry at which ratepayers may attend and object to the proposal.

Where sanction is ultimately granted the Minister does not usually prescribe the method of raising or repaying the loan, but he does prescribe (having regard to the maximum periods allowed by law and the nature of the asset to be set up) the period in which the loan is to be repaid, and the local authority must provide for the complete repayment of the particular borrowing within that period.

The local authority is at liberty to provide for repayment within a shorter period, but on no account must the period prescribed by the sanctioning authority be exceeded. There is no right of appeal to the Minister's refusal to grant a borrowing power.

The maximum loan period prescribed by the Local Government Act, 1933, is sixty years. The loan periods usually allowed by the Minister are as follows:—

(1) freehold lands	... ..	60 years.
(2) buildings, sewers, water mains, etc.	... ..	30 "
(3) walls, sea-defence works, new road construction, etc.	... ..	20 "
(4) refuse destructors, machinery and furniture of buildings, etc.	... ..	15 "
(5) fire engines, road rollers, hard-wood paving, etc.	... ..	10 "
(6) gravel footways, soft-wood paving and macadam	... ..	5 "

Public Administration

The maximum loan periods allowed under certain other Acts are as under:—

The Tramways Act, 1870	... ..	30 years.
The Allotments Acts, 1908 to 1931	... ..	80 „
The Small Holdings and Allotments Acts, 1908 to 1931	... ..	80 „
The Housing Acts, 1925 and 1930	... ..	80 „
The Housing (Rural Workers) Acts, 1926 and 1931	... ..	80 „
The Road Traffic Act, 1930	... ..	Such period as may be prescribed by the Minister of Transport.

When direct borrowing powers are sought by means of a local Act, the proposals are subject to close scrutiny by the appropriate Government Departments and a Committee of the Houses of Parliament.

It will be realised, therefore, that although the loans sanctioned each year assume such large proportions the local authority must convince the central authority that the proposed expenditure is in the general interests of the ratepayers, etc., that it is not excessive, and that it is within the ability of the authority to pay.

A local authority may borrow temporarily, by way of loan or bank overdraft, to meet authorised loan expenditure pending the raising of a loan. Further, borrowings may be incurred, without the consent of any sanctioning authority, for the purpose of paying off any moneys previously borrowed which are intended to be repaid forthwith or replacing moneys which have been temporarily applied from other moneys of the local authority.

A strictly limited power granted to authorities under a local Act is that of capitalising interest paid on loans in respect of revenue-producing works during their construction, *i.e.*, the interest paid during a certain period is treated as a purpose for which the authority is authorised to borrow. The best illustration is probably that of a waterworks undertaking. In planning for the future an authority may have obtained power to proceed with the construction of new and extensive works (*e.g.*, a reservoir) which will not be actually utilised for many years, and in such a case the authority may be authorised to capitalise the interest paid on loans for a period not exceeding the authorised period for construction or for a shorter stated period, such interest thus forming part of the capital cost of the works.

Generally, a local authority must make provision for the repayment of loans annually, but an exception arises in those cases of

Financing of Capital Expenditure

revenue-producing undertakings where moneys are borrowed for the construction of new works or the extension or alteration of existing works the expenditure on which is unremunerative for a period.

In such cases the local authority may, with the consent of the sanctioning authority, suspend the annual provision for the period during which the expenditure remains unremunerative for not exceeding five years. This power does not, however, extend the loan period sanctioned but correspondingly shortens the period in which repayment has to be made. For instance, where the suspension is for five years a 60-year period is reduced to 55 years from the date when the first payment to the Sinking Fund becomes due.

4. METHODS OF RAISING LOANS

The chief methods by which local authorities are empowered to raise loans for capital purposes are:—

(a) *Under General Law.*

- (1) By mortgage;
- (2) By the issue of stock (subject to the consent of the Minister of Health);
- (3) By debentures or annuity certificates issued under the Local Loans Act, 1875, as amended;
- (4) By mortgage from the Public Works Loan Board;
- (5) By housing bonds;
- (6) By bank overdraft or short-term deposits; and
- (7) By the utilisation of stock redemption funds and other special funds, *e.g.*, superannuation.

(b) *Under Local Acts.*

- (1) By money bills;
- (2) By Corporation bonds; and
- (3) By the utilisation of special funds, *e.g.*, reserve funds, insurance funds, mortgage sinking funds, etc.

The power of local authorities to issue stock under general law can only be exercised with the consent of the Minister of Health, but many of the larger authorities have power under local Acts to issue stock merely on a resolution of the council without reference to the Minister.

A local authority issuing stock under the Local Government Act, 1933, must conform to the provision of the Stock Regulations, 1934, issued under the Act, which prescribe in great detail the procedure which must be followed in creating stock, redemption, application of sinking fund moneys, registration, transfers and all other incidental matters.

Public Administration

Very detailed accounting arrangements are also provided for in the Regulations, which perpetuates the system of earmarking of loans raised, etc., with the sanctions to borrow. This system of earmarking is referred to later.

In considering the terms of a stock issue it is usual for a local authority to prescribe two dates for the redemption of the stock, the first being that on which the stock *may* be redeemed at the option of the authority, and the second the date of compulsory redemption, which must not exceed a period of sixty years from the date of issue. Stock may be issued at a discount provided the price of issue is not lower than 95 and redemption is at par.

There is no power to issue irredeemable stock. Some years ago it was common to issue irredeemable stock for the purchase of revenue-producing works such as gasworks, waterworks, etc., but this is no longer allowed.

Some 40 or 50 years ago, Corporations inserted in the conditions of their Stock Issues the right to redeem the stock at the option of the Corporation. This made the stock practically irredeemable if the Corporation did not decide to redeem it. The one-sidedness and unfairness of this condition seems to have been admitted, as local authorities are not now allowed to issue stock under any circumstances for a longer period than sixty years.

The Public Works Loan Board is a statutory body established for the purpose of lending money to local authorities with a rateable value not exceeding £200,000, but this limit has been removed so far as it relates to loans for housing and education purposes, etc. Further, any local authority is entitled to borrow from the Board for any authorised purpose an amount equivalent to one-half of the gross proceeds of the sale of National Savings Certificates in the area of the authority.

Power to issue money bills for short periods not exceeding twelve months is available to only a few of the larger authorities, the Government Departments not looking at all favourably on any extension of this class of security, probably because of the competition created with Treasury Bills.

The issue of Corporation Bonds has only been authorised in recent years, Coventry being one of the authorities making use of this method of borrowing. The bonds are issued for any period varying from five to twenty years and carry a nominal rate of interest of four per cent., the price of issue being determined according to the term of the bond and the price of money at the time of issue.

Local authorities of any size have usually been readily granted power to use the moneys of special funds for approved capital purposes. The advantage to the authority is obvious, as it saves the

Financing of Capital Expenditure

cost of raising loans from outside sources. Interest is generally credited to the lending funds at current borrowing rate.

Generally, local authorities regard the issue of stock and/or mortgages as the most important source of capital. The smaller authorities usually find it more simple and convenient to raise the full amount of the loan sanctioned on mortgage from one source but this field is limited to only a small number of lenders, *e.g.*, the Public Works Loan Board, Savings Banks and large Insurance Companies and Societies.

The larger authorities, however, with their extended borrowing powers find this method too restricted and expensive and avail themselves of the greater facilities afforded to them, but whatever the source of borrowing by any authority the security given to the lender is a charge on all the rates and revenues of the authority and all securities issued rank equally without any priority or preference by reason of the date of borrowing.

Lenders are protected against any borrowing by a local authority in excess of its borrowing powers and are freed from any obligation to make enquiries that the sum to be borrowed is within the limits of borrowing of the local authority.

5. SHORT-TERM MORTGAGES AND STOCK

Differences of opinion arise as to what proportion of the loan debt of a local authority should be "funded" and "unfunded" respectively. "Funded" debt may be taken to be that part of the debt which is issued for a long period, such as stock, whilst "unfunded" debt comprises temporary loans and those borrowed for a comparatively short period of years.

Local circumstances and requirements determine the policy to be followed. In certain areas, especially in the north (Lancashire and Yorkshire), where the market for short-term mortgages is usually a good and continuous one, no difficulty is experienced in obtaining or renewing loans at favourable rates of interest. Interest in local affairs may be stimulated by raising money locally and generally the supply may be contracted or curtailed according to the requirements of the authority.

In 1919 and 1920, when local authorities were faced with heavy capital commitments, the ruling rate of interest was as high as six per cent., and many stock issues with a fifteen or twenty years life were made at that rate. Those authorities who relied on short-term mortgages were, of course, obliged to pay the current high rate at the time, but they have long since renewed or replaced those loans at a much lower rate, whereas some of those authorities who issued stock are still burdened with the high-rated stock.

Public Administration

It will probably have been noticed that during the past three months many local authorities have made stock issues to take advantage of the present favourable money rates by repaying mortgage loans carrying higher rates and incidentally "funding" a portion of their debt.

6. LONG OR SHORT LOAN PERIODS

The question as to whether a local authority should take advantage of the maximum loan period prescribed by the sanctioning authority, or provide for repayment within a shorter period, is closely related to that of borrowing versus "pay-as-you-go" policy previously referred to.

Shortly, the advantages of the long period are that the annual charges are less, which may permit costly works to be proceeded with.

Alternatively, the adoption of a short period means that the total cost of the loan is less by reason of the saving in interest and, also, future ratepayers will probably have their own burdens of the day to face without being charged with those of former days.

7. REDEMPTION OF LOANS

Mortgages issued (generally by the smaller authorities only) for the full amount of the loan sanctioned, and for the full period, are usually repaid either on the—

(a) *Instalment system*—equal yearly or half-yearly instalments of principal, with interest on the balance outstanding from time to time; or

(b) *Annuity system*—(which is equivalent to the sinking fund system) equal yearly or half-yearly instalments of principal and interest combined.

The remaining method of redeeming loans is that of the sinking fund, using that term in the broad sense as meaning any fund set aside for the repayment of debt. By this means periodical contributions (usually yearly or half-yearly) are paid into a fund of such an amount as will provide the amount required to redeem the loan on the expiration of the sanctioned period.

The fund may be either—

(a) *Accumulating—i.e.*, the contributions accumulate at compound interest so as to amount to the sum required within the prescribed period; or

(b) *Non-accumulating—i.e.*, the yearly (or half-yearly) contribution equals the amount of the loan divided by the number of years (or half-years) within the loan period.

Financing of Capital Expenditure

The moneys standing to the credit of the sinking fund may be utilised for the following purposes:—

- (a) Redeeming loans as and when opportunity arises, *e.g.*, purchase of stock;
- (b) In exercise of new borrowing powers in lieu of raising further capital from outside sources; or
- (c) Invested in statutory securities until required for redemption of loans.

8. CONTROL EXERCISED BY GOVERNMENT DEPARTMENTS

District Auditors appointed by the Ministry of Health are responsible for the audit of all the accounts of County, Urban District, Rural District and Parish Councils, Parish Meetings, Joint Board, etc. The accounts of Borough Councils are subject to District Audit only so far as they relate to Education, Housing (Assisted Scheme), Public Assistance and Rating, although the Police Accounts are subject to examination and verification of the claim for grant.

In the main the audit is conducted from a legal point of view to ensure that the expenditure of the authority has not been incurred without the necessary statutory authority, and the loan transactions of the authority are given careful attention by the auditor.

The Minister of Health may also call at any time for a certified return in prescribed form, verified by a statutory declaration if required, showing the loan operations of an authority and, in particular, the provision made for the repayment of loans.

If the Minister is of opinion from any such return that a local authority has failed to pay any instalment or annual payment required to be paid, or has failed to appropriate to the discharge of any loan any sum required to be so appropriated, or has failed to set apart any sum required for a sinking fund, or has applied any portion of a sinking fund to a purpose other than that authorised, then he may by order direct the authority to make good the default.

9. LOANS OF LOCAL AUTHORITIES AS TRUSTEE SECURITIES

The importance to investors of securities issued by local authorities in England and Wales will be realised by the fact that on the 31st March, 1932, the gross outstanding debt amounted to no less than £1,357,000,000.

Trustees are authorised by the Trustee Act of 1925 to invest trust funds in the following securities issued by local authorities:—

- (a) In consolidated stock created by the Metropolitan Board of Works, or by the London County Council (the successors to the Board);

Public Administration

(b) In normal or inscribed stock issued or to be issued under the authority of any Act of Parliament, or a Provisional Order, by the Corporation of any municipal borough having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any county council; and

(c) In any local bonds issued under the Housing (Additional Powers) Act, 1919, and mortgages of any fund or rate granted after the passing of that Act under the authority of any Act or Provisional Order by a local authority (including a county council) which is authorised to issue local bonds under that Act.

A trustee is not entitled to purchase any of the securities referred to above—

(a) at a price exceeding fifteen per cent. above par or other redemption value; or

(b) if the stock is liable to be redeemed within fifteen years of the date of purchase, at a price exceeding its redemption value.

Under the rules of the Supreme Court of 1888 nominal debentures and nominal debenture stock issued under the Local Loans Act of 1875 are trustee securities provided that such debentures or stock are not liable to be redeemed within a period of fifteen years from the date of investment.

The effect of making only part of local authorities securities available to trustees of trust funds has resulted in the following inconsistencies:—

- (1) In a borough with a population of less than 50,000—stock issued by the council is not a trustee security but mortgages are if the power to issue housing bonds has been obtained;
- (2) In an urban district (even though the population may exceed 50,000)—stock issued by the council is never a trustee security but mortgages are if the power to issue housing bonds has been obtained;
- (3) Debenture stock issued under the Local Loans Act, 1875, is a trustee security irrespective of the population of the local authority.

10. THE CONSOLIDATED LOANS FUND (LEEDS) SCHEME, 1927.

The practice of earmarking loans to borrowing powers and also the earmarking of invested sinking funds to such powers is quite impracticable with large local authorities because of the difficulties involved. The imagination will have no difficulty in realising the difficulties involved when alluding to a local authority the size of Leeds with over 2,000 active borrowing accounts.

Financing of Capital Expenditure

The earmarking of the security given with the borrowing power exercised adds no security to the lender. Mr. Carson Roberts, formerly of the Ministry of Health Department, who assisted greatly in the formation of the Consolidated Loans Fund, described the earmarking system as "nothing but a mass of barbed wire and fish hooks." This I think properly describes the old primitive and parochial system which is only suited to the requirements of the smallest local authorities with few loan borrowings.

Having endeavoured to work the earmarked system for nearly thirty years, I can speak with practical experience of the exasperating work involved in trying to fit in particulars of all the transactions to meet the requirements of the law and of its utter uselessness in its final results.

This difficulty led eventually to the establishment of a Consolidated Loans Fund, the objects of which are to destroy the earmarking of loans by creating a common cash pool of all borrowings, capital receipts and repayment of debt contributions, out of which borrowing powers are exercised by the transfer of cash to capital account and repayment of loans are met.

The borrowing accounts of the Corporation become as it were merely cash debtors to the fund for cash applied in exercise of borrowing powers. This indebtedness is reduced annually by the repayment contributions made to the fund.

Interest at the average rate paid in the year is charged on the balances owing to the fund at the commencement of each year.

Premiums and discounts in respect of stock issues are treated as deferred credits or charges and are spread over the life of the stock, *i.e.*, to the date when the Corporation have the first right of option to redeem the stock.

Profits and losses on the realisation of investments, or premiums and discounts on the purchase of debt for extinction, are brought into charge (or credit as the case may be) in the year in which such transactions occur and are made the subject of an additional charge, together with any costs of borrowing, in addition to interest.

Valuation of Assets.—In order that the fund shall be at all times solvent, it is provided that a valuation shall be made at the end of each financial year, and if it be discovered that investments have fallen in value below cost then an additional amount is to be charged on the revenue of the year equal to the amount of the depreciation.

In the event of the charge to rates in respect of premiums and discounts on the stock, or on the valuation of investments exceeding a sum equal to the product of a penny rate, then the excess may be temporarily charged to capital and carried forward to the following year, provided that if the excess at any time exceeds the product of

Public Administration

a threepenny rate then the local authority is required to submit a scheme to the Ministry for the disposal of such surplus or deficiency.

The object of this penny rate limit is to avoid any undue burden or credit falling upon revenue in any one year.

Wherever a case is made out for special treatment as to interest the scheme provides that such loans shall be scheduled in order that the borrowing account may be charged a specific rate of interest. This applies in the main to special loans raised for the purchase of trading undertakings, housing and any others which the local authority feel it right and just to preserve an earmarked charge upon any particular revenue account. The Public Works Loan Commissioners will not allow any of their loans to be brought into the scheme except as a matter of record.

For the benefit of the Stock Exchange members and all who are interested in borrowings by municipalities certain statistical information has to be given in a prescribed form in order to prove that the Corporation has not borrowed in excess of its authority to borrow, also to show in summary form the purposes for which it has been borrowed and other information likely to be desired by lenders, such as the rate in the £ of rates levied, etc.

The fund is under audit by the professional auditors of the Corporation who have to certify as follows:—

“ We have audited the accounts of which the foregoing is an abstract and we do hereby certify:—

(a) That the above Balance Sheet presents a true and complete statement of the Loan Debt of the Corporation on the 31st March and of the Advances owing on that day to the Consolidated Loans Fund by the several borrowing accounts of the Corporation and by other Local Authorities;

(b) That the said Loan Debt and Advances are respectively within the statutory borrowing powers of the Corporation;

(c) That all conditions attaching to those borrowing powers in regard to repayment and provision for repayment have been duly observed by the Corporation; and

(d) That during the year all sums of money required by the Consolidated Loans Fund (Leeds) Scheme, 1927, to be paid into the Consolidated Loans Fund have been so paid, and have been duly allocated to Capital or Revenue in accordance with the provisions of that Scheme.”

A copy of this certificate has to be forwarded to the Ministry of Health who have the right to call for full detailed returns showing the position in relation to each borrowing power exercised, the amount of debt outstanding and the amount of investments, etc. It

Financing of Capital Expenditure

is not now usual to call for the return except once in about five years.

The Leeds Scheme was the first scheme to be approved by the Government and was given a twelve months' trial before it was accepted as the basis of a model scheme for the country as a whole. It is understood that a number of local authorities have now adopted the model scheme put forward by the Government and are finding it very satisfactory.

In conclusion, the measure of importance of finance of local authorities can be gauged by comparison with the National Debt. In 1914 the National Debt stood at just over £700,000,000, and had been steadily reducing by about £10,000,000 a year for many years prior to that date. Therefore it is fair to assume that but for the Great War the National Debt would have been reduced by 1934 to somewhere near £500,000,000, whereas the *net debt* of local authorities on the 31st March, 1932, stood at £1,265,695,782.

A Few Thoughts on the Control of a Large Staff

By Lieut.-Colonel A. J. MCCARRAHER, O.B.E.
Head Postmaster of Hull

[*Address to the Hull Regional Group of the Institute of Public Administration, October, 1934*]

WHEN I was asked to give this address I had just been reading a little pamphlet, issued to young officers taking up commissions during the last Great War, on the duties of an officer. That pamphlet emphasised that an officer was responsible not only for successfully leading his men, but for their safety, their health, their comfort, their good behaviour and discipline; and, to attain those objects, it was emphasised that an officer must have knowledge and he must have character. The treatise wound up with the statement that the condition of the unit over which the officer was in command would be his looking-glass.

Thinking over the principles laid down in this little pamphlet, it seems clear to me that what applies to the command of men during war applies equally in handling them in civil life, and I would suggest that those of us who were in positions of control during the war and used our powers of observation would all agree that the real lesson learnt was that you can lead men in these days but you cannot drive them. In our youth we were taught to do as we were told and ask no questions. Such an attitude was Victorian, and being Victorian possibly originated to a certain extent from the German influence. The German individual and national mentality is such that it requires to act under instruction and aims at carrying out accepted principles without question whether they are right or wrong. This type of mentality leads to individual and national suppression. On the other hand democratic control by Committees or Soviets leads to endless discussion, checks progress, stifles effort and lacks drive. The true line of control probably lies between the two theories.

I would suggest therefore that before any line of action is taken a wise leader will obtain the opinion of officers, high or lowly placed, who are likely to be affected by the action which he is contemplating.

Control of a Large Staff

He must then take the final responsibility for carrying out a certain line of action, and *he should not waver in doing so*, for weakness in decision begets lack of confidence between the staff and their leaders. Whatever decision is made there must be straight dealing with the staff and no attempt to score off them by doubtful means.

The pamphlet to which I referred emphasised that a leader must have knowledge and he must know what to do and how to do it. These are perhaps elementary truths, as it is essential for real leadership that the chief must not only have a full knowledge of his business or profession but must also have studied human nature closely and hold those qualities which are commonly indicated by the description "a man of the world." It does not require much imagination to realise what problems can arise in controlling a joint force of males and females.

Assuming the possession of these qualifications, how is staff to be controlled and what does control mean? Control in the fullest sense covers—

- (1) the training of staff in the use of the best methods to give adequate output of work under congenial working conditions;
- (2) to stimulate and make the staff feel that their work is interesting and that each man's effort is important to the well-being of the business;
- (3) to select for higher positions promising officers endowed with judgment and so make the business progressive and possible of self-development; and last, but not least,
- (4) to lead the staff and to take a personal interest in the lives and activities of the men one controls.

Taking these four different aspects of control it must be borne in mind as regards (1) that all men are not equal, but each man has good points, and it is the business of a leader to find them and place men where their qualifications will give the best results; an efficient cleaner is more useful to the well-being of a firm than an indifferent doorkeeper. I place a considerable degree of importance on this point, and would urge that much more in the output of a business can be effected if those qualifications which the unassuming man by his nature conceals, are brought out and made use of. In other words, make full use of every man's capacity. The smart man with the quick answer, if he is a good man, discovers himself. On the other hand, the very smartness of his answers renders one somewhat suspicious of his worth, and more often than not the quiet and unassuming man, who thinks seriously what he is doing and has a high sense of his personal responsibility, is the man you are happy to have assisting you in times of stress and strain. I have vivid recollections of an illustration of this point. During the war,

Public Administration

to provide for the many different units in or around one of the large towns just behind the front in the north of France, a stationary field post office was established, and the corporal who was placed in charge was outwardly one of the poorest specimens of a soldier I have met. He was of frail physique, pallid complexion, and appeared to have a dull and miserable countenance. He was placed there as a more suitable position for him than with the lively and active Brigade H.Q., but when tested (as he came to be) he turned up trumps. That man's office was three times destroyed over his head, and on each occasion he rescued the remains of his stock, transferred himself a few yards up the road, re-opened his office, lit a cigarette and carried on.

The training of staff naturally embodies the discipline of the staff. We all need discipline and we all ought to feel that there is a higher authority than ourselves criticising our work, and if we fall short in our efforts we should naturally expect to be brought to task. Such discipline is wholesome and essential; and, in dealing with staff, acts of default should be dealt with firmly but fairly, bearing in mind all the circumstances in which a particular line of action may have been taken by the man at fault. To sharply reprimand a man who has been over-zealous is to run the risk of making a keen man a nervy creature. It is better to point out to him that while you appreciate that he has taken some action, although somewhat hasty, it would have been better if he had been a little less impetuous. If you can train an impetuous officer to think more before he acts, you are probably creating an efficient member of your staff. Do not forget one thing in effecting discipline. *Never* reprimand a supervising officer in the hearing of the staff.

Under this heading of training we might also consider the question of the health of the staff. To attain good health in a large office it is necessary to see that the accommodation afforded is well ventilated, not crowded, and particularly that it is free from draughts. Lighting should also be considered. Obviously one cannot expect to obtain good results under bad working conditions and, therefore, if it appears that the accommodation is in any sense inadequate, steps should be taken at once to improve it, and then, having obtained good accommodation, arrangements must be made to see that the rooms are well lit, ventilated and heated, and that a suitable temperature is maintained. The opening and shutting of windows promiscuously gives rise to a considerable amount of ill feeling, and it is preferable, therefore, that, where a large staff is employed in a room, the windows should be opened at fixed intervals. Generally speaking, it is found that the intervals during which breaks from work or meal reliefs are being given, are the most suitable for opening the windows. To maintain a suitable temperature, each room should have a

Control of a Large Staff

thermometer, and it should be the business of the senior officer in the room to see that the temperature does not rise above or fall below a given standard to any appreciable extent. If the work is of a sedentary nature the temperature should be maintained at 60° to 62°, and if the work is of an active nature the temperature should be 57° to 58°.

Most large businesses have arrangements for their staff to visit medical officers when they feel unwell, and the general treatment of sickness is dealt with by means of reports from the medical officers. The treatment of these reports can very easily fall into a perfunctory matter, and the head of a business should take steps to prevent this. After all is said and done, each member of the staff is a human being, having personal peculiarities, and the controlling officers who are responsible for medical reports should endeavour to obtain knowledge of each member of the staff and should handle the medical reports in the light of that knowledge. Broadly speaking, the staff divides itself into two classes, the conscientious member who either will not report sick or, if he has reported sick, comes back or tries to come back to duty too soon, and the opposite type of man, who is inclined to prolong medical absence and to make sickness an excuse for leave from work. These two types of man can be spotted by the staff controlling the medical records if they use their local knowledge coupled with the reports, and the chief of the staff should see that the efficiency of the conscientious man is not impaired by allowing him to come back from sickness too soon, and, on the other hand, that the slack man is not encouraged in his slack habits by being allowed to have an undue amount of sick leave. In the Post Office there is an arrangement whereby an established officer can have one day's sick leave without medical certificate. This is commonly called a "Whitley," as the arrangement originated from a meeting of the National Whitley Council. Probably the privilege is afforded by most large firms. The arrangement is a reasonable one provided it is interpreted in the spirit in which it was agreed between the official side and the staff. It forms, however, a loophole for the young man or woman who, feeling a bit in the mood of "the morning after the night before," does not buckle to and come to the office but takes a day off and reports sick. A certain amount of firm handling is necessary in dealing with these cases and, as it will soon be evident from an examination of the records when an officer is taking an undue number of "Whitleys," the officer should be sent for by a senior officer and his weakness should be pointed out, and he should be informed that not only is he bringing the staff into disrepute by taking undue privileges but that if he persists in his action the privilege will be withdrawn from him. In health matters

Public Administration

as in any other matter of control of staff, to attain the best results it is essential to have personal touch with the staff.

We now come to the best working methods to be adopted in any particular business. It is difficult to lay down any particular theories, businesses varying so much one from another, but obviously simplicity of method, reduction of movement, elimination of unnecessary and duplicate records, simple filing systems and the use of up-to-date filing furniture, are suggestions which naturally would be followed in a well-organised business; but, above all, to obtain a good output of work *every step possible should be taken to avoid monotony*. One school of thought is of opinion that if you give a clerk, for example, a Sorting Clerk in the Post Office, one job of work to do and keep him doing that, he will become an expert at it and therefore give a good return of work. That is rather a superficial view to take for, pursuing the illustration of the Sorter, if a Sorter is employed during his eight hours of duty a day doing nothing else but dividing letters up into the same group of counties, what we call Primary Sorting, he will, after a time, become mentally weary and there is every risk that his brain, not functioning fully, will cause him to put the letters in the wrong sorting boxes. It is better to change the Sorter over after two hours on one type of sorting to another, for example, to take him off the primary ordinary dividing work and to place him on the Scottish Division, where automatically his brain responds to a fresh outlook and a fresh interest.

Another point which is somewhat allied to that just mentioned is the necessity for using discretion in the granting of rest reliefs after long periods of work or after heavy periods of work. If the staff has given a particularly good response in commencing a heavy task the wise leader will tell them to take a 10-minutes' relief, or, if it happens to be one of the usual 40-minutes' meal reliefs, to extend that time. I may perhaps mention an incident which happened last Christmas Eve, when I was in charge of the largest Sorting Office in the country, viz., the Inland Section Letter Office, London, which despatches mails to every forward office in the country. At 8 o'clock on that morning, there were three million letters on the tables to be dealt with by the staff on duty and 1,200 bags of letters awaiting opening to be cleared by 9 o'clock that evening or somebody would not get the delivery of their letters on Christmas Day as promised by the Postmaster-General. The staff were approached through their representatives and informed that they had a heavy task in hand and they were asked to make a special effort to clear the work. Good progress was made in the course of the morning, and it was clear to me on reviewing the situation just before the mid-day break was due, that if they could maintain the rate of work at which they had

Control of a Large Staff

started they would just about effect the clearance which was expected. I gave instructions, therefore, that every man was to be given an extended lunch hour, so they could have their lunch, go out and have a good smoke, and come back and clear the decks. There were some 2,100 men on duty, and each man was given 20 minutes more than the usual meal relief, so that strictly speaking, I was sacrificing 700 staff hours of work by giving the extended meal relief. It was worth it. When the staff came back they worked, if anything, faster than they had in the morning, and as a result the whole of the three million odd letters and the contents of 1,200 bags which were on hand in the morning were cleared by the night mail despatch on Christmas Eve.

As to the methods which can be taken as regards (2) to stimulate and make the staff feel that their work is interesting, it is essential in my mind to engender the spirit amongst a large staff that work is not a serious business, but that it is a game which has to be played under certain rules and regulations, with the Chief, for that matter, as referee; that your own particular office is in competition with other offices throughout the town or throughout the country, as the case may be; and, therefore, that every man should feel that it is up to him to help to keep the business as good, if not better, than any other business with which comparison is made. The staff should be encouraged to make suggestions and a system of awards adopted. Should a well thought out suggestion not be adopted it should not merely be turned down formally on paper but the officer who made the suggestion should be seen and the reason why his suggestion is not accepted should be explained to him; the opportunity should be taken to enlighten him as far as possible on those questions of policy on which his suggestion may bear, thereby broadening his outlook. As a result he may come forward at a later date with a much better suggestion than the one he has already made.

When general changes are in contemplation, as far as possible talk them over with the staff and get them interested. And do not overlook the fact that if discipline is necessary it is equally if not more important to acknowledge good work and to congratulate the staff thereon, *but* as it is wrong to be finding fault frequently, so recognition should only be given where well merited. Frequent patting on the back loses its efficacy as a stimulant.

In stimulating men to an interest in their work, we are leading to that very important point (3) the selection of promising officers of *judgment* for higher positions. I emphasise judgment because that is the elusive attribute which is possessed by all good leaders of men. This is the most difficult and the main duty of the head of a large staff; how to select the best men for promotion and not

Public Administration

to give way to personal prejudice. The Chief must make up his mind who are the most promising officers of judgment under his control. In order to do so he should take every opportunity of getting to know the men personally, not only in the office but to know something of their lives and their difficulties and their family troubles. A good man may fall away through illness at home. A Chief can get to know the staff in many ways, but one of the best is through the medium of the various branches of the sports associations attached to the business. It may be that his staff is so very large that he cannot know personally all the members, but he can make it his business to know those men in each of the sections of his business whose judgment he can trust, so that when it comes to finding out whether the young man A, B or C is worth consideration, he can get a side light on the man other than through the ordinary official source of reports. This also acts in the opposite direction, for the staff get to know the Chief. Having made up his mind who are the men for consideration and which particular one he thinks should be selected for promotion, he should then, in consultation with his supervising officers, suggest to them all the objections *against* the man that can possibly come to his mind and by questioning and suggesting make his junior controlling officers say whether or not the man has the weaknesses which he suggests. By this means he can test his own selection. There is one point I would emphasise, and it is that in selecting the outstanding officers do not forget the unimpressive steady and reliable workers who may prove better supervisors than the outwardly brilliant men. Above all, do not place yourself in the position of being told that all your geese are swans.

In selecting staff for promotion, with all due deference I say that men's selection of men or women for promotion is, as a rule, sounder than the selection by women; for women, in my experience, are much more liable to turn down a good woman worker on personal prejudice and not to give full weight to what should be their real judgment of the woman in question.

To select men for promotion in the Post Office it is the practice, as many of you may be aware, to call upon officers senior to the men in question to furnish reports under a number of headings, and then for a promotion board to sit and select a man after consideration of these reports. Although this system appears to be a sound one in principle, it is in my opinion, liable to the weakness that men, and for that matter, women, are not disposed frankly to express on paper opinions contrary to officers working under them; and, therefore, it is more than necessary for the head of a department or an office to get side lights on the members of the staff who are being considered for promotion.

Control of a Large Staff

I have already stated in discussing the first three points that I consider personal touch with the staff is essential for good control, and, as I have already indicated, I am of opinion that the development of the sporting interests in a business are invaluable. Work hard—play hard. A man will show his character quicker in a cricket, golf or football match than he will in the office, and he will also show characteristics of which possibly you did not dream.

I have indicated in my previous remarks various ways in which a chief or supervising officer can get into personal touch with his staff and lead them; but, whether in war or in peace, there is bound to come a time when the chief of a department or business is faced by such trying conditions that doubt may exist whether the staff will succeed in carrying out the work or the task which they have to perform. Rush against time to complete a special order must be as familiar to the head of a business house as it is to the Chief or Postmaster of a large staff in the Post Office at Christmas, and it is on these occasions that the chief must endeavour to show himself absolutely unperturbed by the conditions which he has to face. In fact, although he may be very anxious as to the success of his arrangements, he must, in the presence of his staff, show a natural and, if possible, a smiling demeanour in order that the staff may feel "Well, we have a big job to do, but the chief does not appear to worry about our success." A little chaff and a story or two go a long way. This is far from an easy matter, particularly to a man of keen brain and high-strung temperament. He must not get irritable, he must not rush about in a panic, but he must appear to be moving around absorbing the situation and *quietly* rearranging the staff so that a spirit of confidence exists throughout. Perhaps I may give a simple suggestion which was made to me some years before the outbreak of the last Great War by an old regular officer, who had served the best part of his lifetime in minor campaigns in the North-West frontier of India. It was that the man who does not feel apprehension when in a trying corner and possibly under fire for the first time, does not exist, but he must not show his feelings to his men. "Therefore," he said, "if ever you get in that position, just imagine that you are standing ten feet away from yourself, looking at yourself, and picture what you look like in the front of your men when you are feeling all to pieces. You will then be able to say to yourself 'Don't look such a damned fool. Get on with the job.' " This may appear to be a quaint method, but I know that if some of you are placed in positions of difficulty where you feel nervous as to what you are doing, if you carry out the same policy of quietly looking at yourself you will find yourself considerably strengthened to carry on your lone hand of control.

Public Administration

What you get out of a staff depends upon what you put in.

Staffs differ from office to office, and the secret is to tune in to the local atmosphere. In Yorkshire that should not be difficult. Cricket is there the open sesame, but don't eulogise Hobbs.

In these few remarks I have endeavoured to give you the impressions which I feel as regards the control of staff, and in conclusion I would say that to feel the response and elasticity of a fully trained staff when faced with heavy pressure is one of the finest feelings I have ever experienced. It is like driving a high-powered well-tuned car. The power seems without limit.

How Shall we Train in Public Administration?

DONALD C. STONE

*Director, Consulting and Research Division, Public Administration Service
Executive Director, American Society of Municipal Engineers and the
International Association of Public Works Officials*

THE Hadow report on recruitment and training of personnel and the publication at the same time of the independent committee inquiry under the chairmanship of Dr. W. H. Moberly¹ have given us on the western side of the Atlantic a rich morsel to chew. The more recent discussions appearing in PUBLIC ADMINISTRATION have added light and colour to the problem of public personnel administration. It is refreshing to note the more constructive points of view arising among British observers, and encouraging to us in the United States because the solutions in England growing out of the present energetic and practical approach will have beneficial reverberations here.

Need of a Good Dose of Brains

The need for recognizing the professional aspects of public administration has been growing steadily in America as well as in Britain. But as yet, we have not had the courage to transpose what we believe to be a practical programme into action. As in England we tend to forget that public administration has altered just as much as the machine age has reformed our way of life. We look too often upon government and its functioning historically and not upon the facilities necessary to cope with changing burdens placed upon it, burdens which are not only amazingly more varied than a quarter of a century ago, but also infinitely more technical and complex. The training and other qualifications of personnel found essential before the days of unemployment insurance, generation and distribution of power, public housing, or scientific crime detection may have no relation to requirements to-day. Yet we have all proceeded on the theory that they do, or without any theory at all.

This complexity is growing by leaps and bounds and whether we like it or not, government is being forced to concern itself with pro-

¹ See PUBLIC ADMINISTRATION, April, 1934.

Public Administration

blems ever expanding in intricate social, economic, and technological dimensions. So that in recruiting our public servants, we must consider the needs of emerging burdens as well as present requirements. The degree with which we are able to adjust government to economic change increasingly kaleidoscopic without being sucked down by the swift undercurrent of social conflict will depend largely upon the quality of public administrators and technicians that we can place in the government service. Will we be able to bring into the service, national and local, the best brains and the most competent leadership that youth has to offer, brains and leadership equal to the gigantic administrative tasks that lie before us? That is the major challenge in government in England as well as in the United States where it is even more acute for we have the additional obstacle of the passive acceptance of political patronage by many communities and our social institutions are less securely established.

The Technician v. the University Man

PUBLIC ADMINISTRATION has furnished a splendid battlefield for the fight (on paper) between the technician and the university man in their mock struggle for administrative supremacy. In the final analysis, however, it is not a problem of the university graduate versus the technical man. (In the United States both of them are university trained.) It is a question of securing the best man for the position—not alone for the duties of to-day, but for the duties of ten years from to-day, or of duties higher up the scale if the position offers opportunity of promotion. Looking upon problems of management in technical departments as well as the business or staff services, it should be obvious that training in the special skills and methods required in administration should prove just as beneficial as does the training of the technician in the science of his profession. Perhaps we have tried too much to set technical and administrative problems into separate air-tight compartments. If the technician who is faced with administrative tasks of a minor order as well as purely scientific ones is trained also in public administration, will he not be a better potential executive of the department? Administration is not an instrument that only the man at the top manipulates in his rich-rugged office. It is a process permeating an entire organization, and requires the participation of all employees to a more or less degree. Very few strictly technical jobs can be separated wholly from a need of an administrative approach.

In large departments, the chief may need to rely on his technical training to a very minor degree, with other attributes taking the ascendancy. These attributes will ordinarily consist of knowledge and skill in administrative arts and of personal qualifications which

How Shall we Train ?

equip him for leadership. Such administrative art, if true art, is capable of being practised anywhere with effective results.

Although the philosophy of management may be the same for one technical function as well as for another, the application of this philosophy may be more or less distinct for each function. To be realistic, therefore, we must train in applications as well as in philosophy. Thus training in administration is not the simple task of submerging all comers in the same intellectual bath, but of adding after the general cleaning different bath salts to sweeten the result according to need. It is at this point that attempts to train in public administration have failed almost invariably. Even to the candidate for a career in general administration, the adding to his bath of administrative salts consisting of the application of the philosophy of management, the various important functions of government will prove of material benefit in his viewing of administration as a whole.

Distinction Between Cultural and Professional Training

Granted then that both the technician and the university man will be trained in public administration of either a general or a specialized nature or both, what kind of instruction should they be given? What courses should they take, who should give the instruction, and when should they receive it?

At the outset, a distinction should be made between what may be called cultural or fundamental training and professional training. Cultural training in government is concerned with a broad study of problems and policies and philosophy, whereas professional training deals also with the art of techniques by which particular policies may be applied. Studies in the cultural or fundamental sphere includes such fields of knowledge as political theory, constitutional history, public law, political economy, sociology, the organization and services of government, and broad principles of public administration. Most of the work called training in public administration has been restricted in the United States as well as in England to these pre-professional subjects, to the philosophy only and not to the science and art of its application.

Professional training is not alone concerned with such broad basic studies, but is primarily interested in the art and specific methods whereby the intents and purposes of government are effected day by day. Under cultural training we study, for example, the development of welfare services as responsibilities of government, and the political, social, and economic questions that arise in their conduct. Under professional training we learn the techniques, organization, and practices whereby welfare policies may be administered. Under cultural instruction the student would learn

Public Administration

the history of budgeting, its economic significance, and its necessity as a governmental instrument. In his class in the professional school of public administration, he would learn in specific detail the manner in which various kinds of budgets are prepared, adopted, and executed. If the course were properly given he should be equipped from the standpoint of knowledge to formulate a complete budget for any reasonably-sized governmental authority.

Training of Demonstrated Value

Up till the present time very little training has been given in public administration. A few pioneer efforts have brought encouraging results. Perhaps the chief reason for the failure to undertake training programmes has been the hesitancy of universities to embark on a programme which may appear at first glance to be somewhat vocational. Then, too, with very few exceptions, the universities have no persons on their staff competent to give this kind of work. And finally, because of the wide variety of subject matter, and thus the need of a large corps of instructors, few institutions have been able financially to embark upon a real programme. Public pressure is required, which is just beginning to crystallize. Public officials and the public they represent are only now being persuaded that such training is practical.

Too often has the story been told that a person can learn how to do some of these things only from experience, and that one has to pay more if recruitment is at a higher age. The latter attitude has developed a system of exploitation of youth which is in my mind entirely indefensible. Under it a youngster is subjected to such a long period of concentration on uninstructional routine, that development of his personality, vision, and resourcefulness is severely handicapped. The former attitude is not founded in fact. We do know that we can train persons in the technique of public administration; we can equip a man with the tools of budgeting, accounting, personnel administration, purchasing, and other vehicles of administration. Through the instructional process students can learn the essentials of organization, methods of co-ordination, how to make investigations, and the administrative procedures which have proved successful and which have not.

Perhaps we cannot train a student to be artful and skilful in the application of these techniques, nor can he be furnished a personality, aptitude for negotiation, and a score of other personal traits indispensable for an effective executive; these are problems of the selection of students and their evaluation on the job. Nevertheless, the foregoing techniques will prove invaluable no matter the degree of initial aptitude.

How Shall we Train ?

Four Essentials to Successful Training

Perhaps one of the reasons why training for the public service has been so inadequate and ineffective is that we have not applied to the problem of training those principles of administration we have tried to teach. The training programme, at least in the United States, has been a casual by-product of the university or technical school system in general, and has not received thoughtful and continuous management.

This management faces four vital problems. First, the recruitment as students of the most promising young men and women in the country; second, the securing of instructors who have a sufficiently broad cultural background and at the same time practical experience in the subjects which they teach; third, the development of curricula in public administration and adjusted to the needs of training both general administrators and administrators in the technical departments; fourth, the opening of channels of placement through direct and continuous contact with the employing authorities. Each of these steps is exceedingly important. Placement is the crux of the problem and its ready solution will depend to a large extent upon the adequacy of the other steps.

Selection is perhaps the most fundamental of all. If the proper students are recruited, the training and placement will be greatly simplified. As the end result of this training is to fit men for administration, certainly the basic factors in recruitment should be aptitude for administration. Executive ability is quite a different quality from the mere ability of a man to express himself, to make a good impression, to wrestle with abstract problems, or to evoke confidence upon a casual meeting. The administrator is under fire day in and day out, and the foregoing qualities desirable as they may be may not help very much. Does the man possess the faculty of looking objectively at problems? Does he have the knack of getting things done? Can he make decisions? And so on.

Syracuse University has done the most successful work in this field in the United States, largely because it has observed the essentials listed above. Having served formerly as a student and just recently as an instructor, my observations are based on first-hand knowledge. First of all, the class consists of a small group, this year numbering twelve, who are selected carefully from universities throughout the country. Some of them are university graduates in classics and liberal arts with emphasis upon the cultural aspects of government. Others have had training in technical professions, engineering, law, accounting, etc. This class operates as a unit and all instruction is designed entirely for the needs of the class. One subject is taken at a time, so that the student need not concern him-

Public Administration

self with anything else during that period. This facilitates the bringing in of outside instructors who are specialists in the different fields, as well as the student's absorption process. At the end of the instruction work, a special investigation and report is made of some administrative problem. After this the student serves an apprenticeship in some public authority or with a governmental organization of some kind. Special efforts are made permanently to place the men. Nearly all graduates are in public work, some as city managers, others as departmental officials, and many in governmental research and advisory positions. Although the term of instruction is all too short and there is not provision for specialization by technicians in a particular function of government, other than in the investigation project, the greater usefulness of the product of this group course of Syracuse University as compared with graduates of other universities, demonstrates clearly the practicability of the Syracuse approach.

A Suggested Programme of Training

The following is suggested as a programme which I believe would yield most constructive results in the United States. Some parts of this programme might also be applicable in Great Britain.

A major university with excellent facilities in the social sciences and in the cultural phases of public administration should become the focal point for the training programme. In order to give a realistic approach and to aid in providing instructional staff, several national governmental organizations should become formal participants in the undertaking. Reference is made to such agencies as the International City Managers' Association, Municipal Finance Officers' Association, American Society of Municipal Engineers, American Municipal Association (Federation of state leagues of municipalities), Civil Service Assembly (association of civil service administrators), and similar agencies, all of which have their counterpart in Great Britain. A director of training should be appointed who would have no other duties than management. The position requires a man with broad contacts and experiences in both academic and official circles, and who himself possesses administrative abilities thoroughly demonstrated. The training school will succeed or fail in proportion to the competencies of its director.

The recruits for the training school should be obtained from three sources to be given three types of instruction programmes.

(1) *Recruits from Undergraduate Schools.*—As a means of attracting the best material of the country, the director will canvass the colleges and universities to discover those young men of the graduating classes who are recognized as outstanding and have demonstrated the necessary qualities of leadership, personality,

How Shall we Train ?

administrative aptitude, and scholastic achievement. No final selection should be made without personal interview by the director. Selection committees of public officials in the region might do some preliminary sifting and dramatize the procedure. Inducements might be offered in the form of a stipend for the first year, or the assurances that the student will receive one for the second if he completes satisfactorily a year's work in the fundamental or cultural aspects of public administration.

A year will be devoted to fundamental and preparatory work consisting of such subjects as political theory, public finance; national, state, and local government; constitutional and administrative law; and certain aspects of sociology, economics, and psychology; depending upon the man's previous attainments and his major interests. Some graduates may have completed a satisfactory programme of such training, and may by-pass this preliminary work.

Another source of recruits, and which may be the most important, will be found among persons who have held official office or who wish to qualify themselves better for re-entering the service, or for higher positions.

Persons having satisfactorily completed the fundamental training should be subjected to special instruction for a period of twelve to fifteen months in the technique of public administration, both general and with respect to each of the main functions of government. The major emphasis should be upon the staff services of government, *i.e.*, management problems, organization, personnel administration, budgeting, accounting, finance procedure, methods of control, measurements and appraisals of service, office practice, planning, purchasing, executive—legislative relationships, relation to public and press, both for governmental units as a whole and the various services they perform. This portion of the study should be intensely practical, using case examples wherever possible, and upon occasion visiting public offices where proper procedures are in effect.

This instruction should be given by the best specialists in the country, taking one subject at a time. The organization referred to above would provide a major portion of the instructors. Public officials, consultants, and staff members of governmental research bureaux may be drawn upon. The director and his full-time staff will need to meet frequently with the group or groups as well as individually to integrate the instruction.

(2) *Recruits having Specialized Training.*—The second type of student to be selected includes those who have already received professional or vocational training in some technical field of government, or who have had experience as officials in a special field and who are interested in fitting themselves to advance into administrative posts

Public Administration

in the field. Reference is made to law, engineering, accounting, social service, personnel administration, etc.

Such students should be subjected to the same sort of specialized work in public administration as the group (1) above. In this way, men will be developed who can quickly rise to administrative positions in their technical fields, or who can move when opportunity permits, to general administration.

(3) *Recruiting for Specialized Technical Training.*—The third type of recruiting suggested is the selection of students trained in the fundamental as well as the professional fields of public administration who have developed an interest in a specialized field of work such as governmental accounting, social service, personnel, public health, etc. Training schedules will need to be developed by the director to fit the individual needs of such persons. Such training might take any one of three channels: (a) pursuing a course of study in a professional school of the university, (b) taking courses in professional or technical schools located elsewhere, or (c) furnishing of special training by the training school in fields not available elsewhere, using chiefly in this case the facilities of the governmental organization operating in the field which the student wishes to enter.

Experience with Governmental Organizations.

In so far as arrangements could be effected, the students should work on research and other projects conducted by the several organizations of public officials and public authorities. This part of the programme might take the place of the usual thesis work. If a student were interested in the city manager field, for example, it might be profitable to send him out to make a survey of the administration of a small town, upon which he will report and submit recommendations for the improvement of the various procedures. This survey should not be published, but submitted only to the city manager after review and criticism by the instructors or staff members of the city managers' association. The use of students to assist organization staff members on field trips, installations, or surveys is another example of the advantages of such a co-operative training programme.

Further supplementing this formal instruction, the student should be required to serve an apprenticeship or internship in some public authority, unless he is fortunate to secure a position immediately or has served as an official. Not only should such internes be easily placed, but it is also believed that officials would make efforts to obtain them. This stage of the process should be given nation-wide publicity. No man should be placed unless the official gives reasonable assurances that he will be employed if his work proves satis-

How Shall we Train ?

factory. If he has not made his services indispensable during this interne period, then probably he should never have been selected for training in the field place.

While the training work is under way, the director should develop a market for the product of the school. He will need to keep in close touch with national, state and local officials and employment bodies. In addition to public positions there are a wide variety of semi-public organizations which have need of men with this public administration background. Private utilities, newspapers, political parties, research bureaux, and organizations doing business with the governments, are illustrations. This training would provide a man with many talents and be of practical benefit to him in almost any field of endeavour that he should decide to pursue.

Institutes of Public Officials.

This joint training school would be the logical agency to develop the plans and to manage regional institutes of public officials, municipal league training schools (of which there are already a great many in some states), and local schools for officials already in the service. A panel of instructors could be established and assigned to these schools from time to time. Thus, at the same time an effective system of training of university and technical graduates for the public service is being carried out, a major step forward could be taken in post-entry training. This could and should comprise the major activity of such a school.

This may sound like an elaborate and impractical programme. However, each phase of it has been demonstrated successfully and all that is required is some initiative to start it in motion. With proper administration such a school could become a most important factor in professionalizing and improving the quality of the public service and in altering the citizen's attitude toward "soft government jobs."

Notes

RECENT LEGAL DECISIONS AFFECTING PUBLIC ADMINISTRATION

By F. A. ENEVER, M.A., LL.D.

SYNOPSIS

Measure of Damages ; Telegraph Poles ; Clearance Order ; Negligence ; Compulsory Purchase ; Public Authorities Protection Act ; Medical (Midwifery) Fees.

Measure of Damages

In *Attorney-General v. Valle-Jones* (179 *Law Times*, 121; 79 *Solicitors' Journal*, 126) the circumstances were that two airmen in the Royal Air Force were injured on account of the negligent driving of a lorry by the defendant's servant and had obtained verdicts against the defendant for damages in previous proceedings in which no claims had been made for loss of earnings or hospital expenses. In the present action the Attorney-General on behalf of the Crown claimed by Latin information to recover from the defendant £326 16s. 8d. for (a) loss of services of the injured men during their period of incapacity whereby the Crown had lost the amount of their pay and allowances and (b) the cost of hospital treatment.

The defendant argued that payment of the wages could have been avoided by dismissing the men, since they were employed at pleasure, and that the hospital expenses were incurred voluntarily and not under any contract, and that therefore the payment was unnecessary or could have been avoided.

Mr. Justice MacKinnon held that the principle of mitigation of damages did not apply because, if the Crown had dismissed the men and left them to pay their own medical expenses, the men would have been able to increase their own claims against the defendant. The expenses were not incurred unnecessarily merely because they were incurred voluntarily. They were the natural consequence of the defendant's negligence and the Crown was entitled to recover them.

Telegraph Poles

In *H.M. Postmaster-General v. Southgate Corporation* (79 *Solicitors' Journal* 181; *The Times*, 1st March, 1935) the Railway and Canal Commission had before them the question whether certain telegraph poles, which the Postmaster-General desired to erect, adversely affected the amenities of the district. By Section 3 of the Telegraph Act, 1878, it was a condition precedent to the execution of the contemplated work that the consent of the Corporation should be obtained. This consent was not forthcoming and the matter was referred to the Deputy County Court Judge under Section 4 of the Act, before whom the Corporation put forward the following grounds for withholding their consent: (a) that an underground system was more appropriate in the circumstances; (b) that an overhead system depreciated the value of the property in the immediate vicinity of the poles; and (c) that poles and overhead wires were a source of danger, and disfigured and adversely affected the amenities of the district.

The Postmaster-General contended that the difference in the respective costs of the two systems was such as to render the underground system imprudent.

The Deputy County Court Judge had held that there was likely to be such an increase in the adoption of the telephone service during the period of twelve years which the present arrangements would cover as would distribute the extra cost of the underground system in such a way as to reduce it in the course of time to negligible proportions, and that the underground system was the more satisfactory and appropriate, and had made an award in favour of the Corporation. The Postmaster-General appealed.

Mr. Justice MacKinnon, after pointing out that, before the Commissioners, the objection of the Corporation to the poles had been based solely on the ground of amenity, referred to the question of the expense of the alternative system to which the Deputy County Court Judge had given consideration and stated that, on the evidence which had been given, he could not agree with the conclusion that the prospective development

Notes

would be such as altogether to extinguish the cost. Further, the consideration whether, from the point of view of economic policy, having regard to the business which would be attracted, it would be proper to adopt an underground system appeared to him to be a matter for the Postmaster-General. The only ground on which the Corporation could object would be something which affected them as guardians of the streets. Their objection must therefore be based on the question of amenity.

His Lordship stated that if any of the streets concerned could be said to be a thing of beauty, he would eagerly accede to the desire not to impair that beauty by the erection of telegraph poles, but, with regard to the streets under consideration, he did not find that there was in fact any sufficient beauty to warrant such a decision. He was of opinion that the appeal should be allowed. Sir Francis Taylor, K.C., and Sir Francis Dunnell gave judgments to the same effect.

Clearance Order

In the case of *Re Birkenhead, Cambridge Place, Clearance Order, 1934; ex parte Frost and others* (179 *Law Times*, 44; 79 *Law Journal*, 78, sub-nom. Frost and others v. Minister of Health) owners of part of property included in a clearance area objected to a local inquiry, held under the provisions of Schedule I, para. 4, of the Housing Act, 1930, on the ground that the clearance order which it was proposed to confirm dealt with a different area from that originally marked on the Birkenhead Corporation's map, certain property of the Corporation having been excluded from the order. Such exclusions had been made on advice given to the Corporation by the Minister of Health. On the order being confirmed, the owners made application to the High Court under Section 11 (3) of the Act, contending (1) that it was outside the powers of the Minister to confirm a clearance order other than that originally put forward and (2) that the Minister had departed from his judicial character in advising one party without the knowledge of the other.

Mr. Justice Swift held (1) that the Corporation had power to amend the area included in the clearance order and that the Minister had jurisdiction to confirm an order so amended and (2) that although for certain purposes under the Act the Minister acts quasi-judicially (cf. *Errington v. Minister of Health, XIII PUBLIC ADMINISTRATION, 81*) he acts in an administrative capacity before a local inquiry is held and is therefore entitled to advise local authorities. The application was dismissed.

Negligence

In *Nicholson v. Southern Railway Company and Sutton and Cheam U.D.C.* (179 *Law Times*, 104; 79 *Solicitors' Journal*, 87) the defendant Council had made up a road adjoining unfenced land alleged to be owned by the defendant Company, so that when completed the adjoining land was about six inches below the level of the road. The plaintiff claimed against both defendants for injuries sustained by falling one night down the slope of the adjoining land and breaking her leg.

Mr. Justice Branson held that the defendant Council were liable and that their defence of contributory negligence failed. The obligation of an adjoining owner was not to allow his land to be used in such a way as to constitute a nuisance to the public. He held that when the authorities concerned with the making of a highway altered the highway in such a way as to make it dangerous there was no obligation on such adjoining owner to make it safe, so the action against the Railway Company failed. Judgment was given for the plaintiff for £500 and costs against the defendant Council and for the defendant Company against the plaintiff with costs, such costs to be paid by the defendant Council.

Compulsory Purchase

In *Re Public Works Facilities Act, 1930, Re an application by Sir John Simeon, Bart.* (179 *Law Times*, 121; 79 *Solicitors' Journal*, 109, sub-nom. Simeon v. Minister of Health; 79 *Law Journal*, 133) the applicant objected to a compulsory purchase order made by the Isle of Wight R.D.C. on the grounds that (1) the order had wrongly described the applicant, (2) the Public Works Facilities Act, 1930, only authorised acquisition of land, and (3) his objections had not been sufficiently considered by the Minister of Health. The circumstances were that the applicant had sold the land in respect of which the order was made, reserving certain water rights, the applicant's predecessor in title having, in 1904, and subsequently, granted water rights in respect thereof to the Council. The compulsory purchase order was made after abortive negotiations for the grant to the Council of the sole right to obtain water from the land and in the schedule to the order the applicant and his purchaser were described as "owners or reputed owners." The applicant having given notice of objection to the confirmation of the order, a public inquiry was held, after which the Minister of Health confirmed the order.

Mr. Justice Branson dismissed the application and held that the order was not invalidated by the description of the applicant as "reputed owner," that the rights which the order empowered the local authority to purchase were within the scope of the

Public Administration

Act, and that the Minister had sufficiently discharged his duty under the Act by considering the report of the holder of the inquiry and the applicant's written objections.

Public Authorities Protection

In *R. and W. Paul Ltd. v. Wheat Commission* (179 *Law Times*, 86; 79 *Law Journal*, 170; 79 *Solicitors' Journal*, 86) it was held *inter alia* that the Wheat Commission, in the performance of acts in execution of a public duty, were entitled to the protection afforded by the Public Authorities Protection Act, 1893, so that action must be brought within six months of the payment of the quota.

Medical (Midwifery) Fees

The Court of Appeal has held in *Brown v. Monmouthshire County Council* and three other actions against the same defendants (*The Times*, 13th March, 1935) that Clause 8 of the Regulations of the Minister of Health dated 20th December, 1922, under Section 14 of the Midwives Act, 1918, is *ultra vires*.

Section 14 (1) of the Midwives Act, 1918, enacted:—

"In case of any emergency, as defined in the rules framed under section three, I (e) of the principal Act (Midwives Act, 1902), a midwife shall call in to her assistance a registered medical practitioner, and the local supervising authority shall pay to such medical practitioner a sufficient fee, with due allowance for mileage, according to a scale to be fixed by the Local Government Board."

The Regulations of the Minister prescribing the scale of fees contains the following clause:—

"8. No fee shall be payable by the local supervising authority:—

(1) Where the doctor has agreed to attend the patient under arrangement made by or on behalf of the patient or by any club, medical institute, or other association of which the patient or her husband is a member, or where the doctor is under obligation to give the treatment to the patient under the National Health Insurance Acts, 1911-22.

(2) Where the doctor receives or agrees to receive a fee from the patient or her representative."

The four actions were brought by four medical practitioners against the defendants who were the local supervising authority for Monmouthshire under the Midwives and Maternity Homes Acts, 1902-26, for the recovery of fees for service when called in by midwives in case of emergency under Section 14 of the Act of 1918. The defendants contended that no fees were payable by them because each plaintiff had agreed to attend his patient under arrangement made by the patient or on behalf of the patient by a club.

Lord Hanworth, M.R., in giving judgment allowing the appeal, stated that what Section 14 of the 1918 Act demanded of the local supervising authority was that they should pay to a medical practitioner a sufficient fee in any case where he had been properly called in by a midwife, and that fee was one to be fixed by the Local Government Board, and was so fixed according to that scale.

Clause 8 of the Regulations seemed to go on to determine other matters which did not properly belong, and ought not to be appended, to a mere scale of fees. It seemed, by anticipation, to determine matters which might be suitable for consideration where proceedings were taken by the local supervising authority under the power given by Sub-section 4 of Section 14 to recover the fee from the patient, but which ought not to be determined and could not be determined beforehand.

In three cases there was an agreement by which the doctors were retained by a Society to act as its doctors. That agreement related to such medical benefit as came directly under the National Health Insurance Acts. It was true that in some societies it was possible to have additional benefits as medical benefits, and it might be contended that one of the additional benefits which were catalogued in the third schedule to the National Health Insurance Act, 1924, introduced the benefit of midwifery in some cases. He thought, however, that the agreement in the present case related to medical benefit and not otherwise; but that this Society could give benefit in midwifery, though only allowing the patient a fee of not more than 10s. 6d. It appeared to him that "sufficient fee" here was only intended to lay down that, in propounding the scale of fees for doctors called in by midwives, the doctors should be properly remunerated for the services which they rendered, and that this had no relation to another source from which a payment might be made.

In the fourth case the doctor was not a person who held any agreement at all. He attended a number of persons who had a poundage system by which, in given circumstances, they were entitled to the services of a medical man, which included midwifery attendance. In his case it was, therefore, necessary to determine not merely what was the meaning of the word "sufficient," but whether or not the prohibition in Clause 8 (1) prevented his recovering. His Lordship stated that he had come to the conclusion that Clause 8 was *ultra vires* for the reasons mentioned above.

Slesser and Romer, L.JJ., gave judgment to the same effect.

Reviews

The State in Theory and Practice

By HAROLD J. LASKI. Pp. 336. (London: G. Allen & Unwin, 1935.) 7s. 6d. net.

PROFESSOR LASKI'S new book consists of four chapters, in which he seeks, as he tells us, to do four things: first, to give a critical exposition of the idealistic theory of the State, *i.e.*, of the conception of Hegel and his English follower, Bosanquet, this being in his view the most influential political theory of recent times; secondly, to show by an examination of political fact that this theory is untenable; thirdly, to formulate a more tenable theory; fourthly, on the basis of this theory to offer a diagnosis of the present political situation, and, "since prediction is the ultimate test of a true social theory," to predict the probable future course of events. The positive theory which Professor Laski formulates in his third chapter is in fact the Marxist theory of the state. "The essential feature of the state is not its search for a common welfare, but its power to compel the acceptance of certain class-relationships, which make the common welfare peripheral and not central to its aim" (p. 270). "Any analysis of the state reveals its essence, whatever its claims, to be coercive authority placed at the service of the holders of economic power" (p. 329). Hence the predictions with which the book closes are pessimistic. The present holders of power are faced by a demand for their abdication. It is extremely unlikely that they will give way to this demand without a struggle; and in England, as in other countries, their main line of defence will be the abrogation of the majority principle on which a peaceful transition to communal ownership might be based. Therefore the probabilities point rather towards than away from violent revolution. Professor Laski is fully conscious of the spiritual losses and sufferings which such a struggle would entail, and he is by no means confident that the struggle would result in the reorganisation on socialist lines which in his view society needs.

Public Administration

He does not seek such a struggle: indeed, he strongly urges the retention of the constitutional weapon to the very limit of its serviceableness, but as a student of politics he finds Western civilisation to be involved in an impasse from which without revolutionary violence there is likely to be in a short time no escape.

Professor Laski makes out undoubtedly a powerful case. Those who, like myself, adopt a more charitable interpretation of the facts will feel their hearts fail at times in reading his pages and the stirring of a fear that they may have been duped too easily by the specious pretences of politics. But yet after all I am confident that he is wrong, wrong not only in his conclusions but also in almost all his premises; and I am conscious further that to explain why I find him so comprehensively wrong would be quite impossible within the limits of space available to me. I must confine myself to a few observations.

(1) On the philosophic side Professor Laski has made the matter too easy for himself by choosing the Hegel-Bosanquet theory as his starting point. I do not believe that this theory has had any great influence. The Locke-Mill tradition has surely been far more powerful in fact; and T. H. Green's amalgam of the Greek, German, and English traditions is still the best existing statement of English political idealism.

(2) Professor Laski's extreme "realism" in politics leads him in one passage, by way of compensation, to invoke the aid of Natural Law. This consorts oddly with his general view of politics as the field of the class struggle, and still more oddly with his often repeated assertion of the impossibility of reaching objectivity in our vision of social welfare. He does not accuse us of hypocrisy: we are most of us perfectly sincere; but we are incurably blinded, all of us, by our economic circumstances. Perhaps Natural Law belongs to the classless state of the future; but Professor Laski does not say so.

(3) Professor Laski says that, as the Greek state was biased against the slave, and the medieval state in favour of the lord, so "since the Industrial Revolution, the state has been biased in favour of the owners of the instruments of production as against those who have nothing but their labour power to sell." (p. 104). Now the state may of course be said to be endorsing any inequality or injustice which it does not take steps to correct, and in this sense the charge of bias is unanswerable. Mr. Laski does not argue that the state has intervened to make ownership more absolute or the proletariat more helpless. He admits the fact of much state action in a contrary sense, but he interprets such action as dictated consciously or unconsciously by the desire to perpetuate the existing position of privilege. Is not this begging the question? Further, granted that most states in their law courts and in their administration show a bias for those who

Reviews

endorse the existing order and against those who question it, is not this perfectly natural and easily explicable without any hypothesis of class domination?

(4) Professor Laski has strengthened and simplified his style, and if he has still not completely overcome his tendency to verbal over-elaboration, he has certainly disciplined it. There are however a surprising number of sentences in his book in which he evidently does not say what he intended to say. I have noted about twenty cases of such inconsequence. I quote one or two, italicising the words I intend to query. P. 19 "The justification of coercive authority . . . is in the measure of its effort to satisfy *maximum demand*." P. 49 "By rights were meant those *ways of behaviour* without which . . ." P. 82 "Law to be ethically valid must conform with the *requirements of the system of rights the purposes of which the state exists to maintain*." P. 103 "That 'natural system of liberty' which *so tragically failed to understand how devoid* is the concept of freedom once it is divorced from the context of equality."

In conclusion, I should like to say that these criticisms do not to any serious extent lessen my sense of the power and value of the book. It expresses powerfully and on the whole temperately a mood of disillusionment which is at present widespread and which if not counteracted will make for the verification of its own woeful predictions. Mr. Laski's great strength is his mastery of contemporary fact and of recent political and legal practice. This side of his equipment is admirably exhibited on page after page of the second half of the book. His essays in theory are often impressive, but they are painted with rather too broad a brush to satisfy an exacting judge. And as to his style, since I may seem to have condemned it, anyone who has heard him speak or who has read any of his writings must know that he has all the gifts, if he will only use them.

J. L. STOCKS.

Studies on Industrial Relations

Volume III. Pp. 183. (Geneva: Published by the International Labour Office, 1935.) Price 4s.

THIS volume continues the series of studies undertaken by the International Labour Office into industrial relations in individual undertakings which have gained a reputation for a progressive labour policy and co-operative relations between management and work-people. The undertakings here reviewed are widely distributed geographically and industrially, being located in Canada, the United States, France, Norway, and the Grand Duchy of Luxemburg

Public Administration

respectively, and including railway transportation, textile manufacturing, retail distribution and the chemical, and iron and steel industries.

The first section deals with the Canadian National Railways, a transcontinental line with a mileage of over 23,000, and with more than 70,000 employees in 1933. Wages and conditions of labour are generally regulated by national collective agreements, while grievances are referred for settlement to joint tribunals. In the last resort disputes come before a Board of Conciliation set up in accordance with Canadian legislation, and a strike is unlawful except after a specified delay during which an inquiry is undertaken. The most distinctive feature of industrial relations on this Railway is the Joint Co-operative Plan, instituted in 1925, under which joint committees meet regularly at each of the chief repair shops to make recommendations for the advancement of the industry, the betterment of the Railway's service to the public and the welfare of its employees. Grievances are excluded from the scope of these committees, which deal with questions of constructive co-operation in which the interests of management and workers are largely similar. During the six years from 1928 to 1933 over 13,000 suggestions were considered at Co-operative Committee meetings; about 79 per cent. of the suggestions were made by the workpeople and 21 per cent. by the management, and 81.5 per cent. were accepted. Many of the suggestions resulted in elimination of waste and technical improvements, and the plan is recognised by both management and men as being of great psychological value. In 1930 a similar co-operative plan was introduced on the permanent way. The study indicates how an undertaking, the employees of which are widely scattered, can develop relations of constructive co-operation.

The Pequot Mills, Salem, Massachusetts, U.S.A., belong to a cotton spinning and weaving undertaking, the Naumkeag Steam Cotton Company, chiefly engaged in the manufacture of plain sheetings and pillow-cases. The undertaking includes a weaving shed covering nine acres, which is claimed to be the largest of its kind in the world. The machinery is of the latest design, being largely automatic and electrically driven. During its long history of nearly one hundred years industrial relations have changed from paternalism, with a curfew bell at nine o'clock every evening and compulsory church attendance on Sunday, to co-operative relations based upon trade union recognition, (since 1919). Co-operation includes regulation of working conditions by collective agreements, together with shop committees for settling disputes and for considering improvements in quantity and quality of production and marketing, monthly joint conferences being held to discuss commercial and technical questions.

Reviews

Some years ago at a time when a reduction of costs was necessary and the management proposed a method which would have involved a considerable reduction in the number of workpeople, the union, on the advice of an industrial consultant, proposed an alternative scheme based mainly upon waste elimination and long range planning, which was ultimately adopted. The scheme operated successfully for several years but came to an end during the recent depression. Though this scheme has been terminated, however, the principle of constructive co-operation has been maintained, and it has been found possible to develop among workers of diverse national origins a high degree of loyalty both to the trade unions and to the Mills.

La Samaritaine, a Paris departmental store, employing a staff of between eight and nine thousand workpeople, is one of the largest of its kind in the world. The methods of organisation are described, indications being given of the strict discipline exercised by the shop-walkers and of the methods of recruiting workers and conditions of work. A free meal, compulsory for most of the staff, is served in the middle of the day. Employees may take a fortnight's leave during the holiday period, when they receive no pay but are entitled if attendance has been regular to holiday allowances of one week's earnings or a lump sum. Piece rates of wages are paid wherever possible and interesting statistics of average annual earnings are tabulated. The special features of industrial relations in this firm include a profit sharing and a co-partnership scheme. By a deed arrangement the staff receive a substantial share of the company's profits, and one half of the company's shares is available for the staff, precautions being taken to prevent them from being concentrated in a few hands, but provision is made to deprive any but the higher managerial grades from participating in management. At the end of 1933 over 40 per cent. of the shares were in the hands of 2,745 employees or former employees. Sixty-five per cent. of surplus profits, that is after making reserve allocations and paying 5 per cent. on share capital, is distributed among the staff, the amounts ranging during recent years from over 2,000 francs for the lowest grades to over 11,000 francs for the highest grades. Many welfare and social insurance schemes are established and a specially strong sense of loyalty and community spirit has been developed in this firm.

The Norwegian Nitrogen Company, which is the most important industrial undertaking in Norway, began in 1905 to apply a process for manufacturing nitrate fertiliser by extracting nitrogen from the air. Later many other chemicals were produced. In 1933 the Company had 3,200 employees, almost all trade unionists. The workers have a strong sense of independence, being in a country where a large element of freedom prevails amongst peasants, fishermen and

Public Administration

hunters. Working conditions are regulated by collective agreements, which also provide that a worker is entitled to refuse to work overtime for certain definite reasons, including attendance at a trade union meeting. Every worker is entitled to an annual holiday of twelve consecutive working days, when he receives a holiday bonus. The Company recognises as the spokesmen of the workers delegates appointed by the workers, whose duty it is to maintain harmonious relations within the works. Some of the Company's premises being built in a hitherto sparsely inhabited district the management has undertaken considerable responsibility for housing their employees, the rentals being low, while workers are encouraged to buy their houses from the Company. A specially interesting savings scheme is in operation, together with a non-contributory system of old age pensions, for which, however, the Company has no contractual obligation. The Company maintains a high standard of appearance in its buildings and surroundings, thus avoiding the drab ugliness of many industrial undertakings. It provides extensive sports facilities and subsidises other spare time activities, and has constructed an expensive cable railway which carries workpeople at a very low cost from the town located in a valley in which there is almost complete absence of sunshine during five months in the year to a point in the mountains 1,500 feet higher up, where the workers can get away from the gloom and enjoy ski-ing, fishing and hunting.

The industrial characteristics of the Grand Duchy of Luxemburg, with its population of 300,000 are described as background for a review of relations in the iron and steel industry, special reference being made to the Arbed-Terres Rouges Steel Amalgamation, which at the beginning of 1934 employed over 11,000 workpeople or nearly one half of the industrial workers of the Grand Duchy. Many of the conditions of work in this undertaking are based upon legislation in force in the Grand Duchy, which has a high standard of labour legislation. Thus the eight hour day is in operation in accordance with the International Labour Convention ratified by Luxemburg in 1928, while there is a system of paid holidays based upon length of service and regular attendance. Works committees are elected by the workpeople to deal with questions relating to wages, welfare, safety and other material and moral factors affecting the workers, including the drafting of regulations and their application. Proposals by the committees are communicated to the management in writing, and although the management is not obliged to take account of the opinions given by committees, in practice no provision is included in the works regulations when opposed by the workers' committees. The committees must be notified of the reasons when any worker is dismissed without notice. Methods of vocational guidance and training, pre-

Reviews

vention of accidents, social insurance and welfare schemes are described.

This series of volumes, based upon first hand investigations by members of the International Labour Office staff, give a wide variety of practical experience of value to industrialists, trade unionists and others interested, whether directly or indirectly, in working conditions and in the methods of industrial relations adopted by successful undertakings in different countries.

J. HENRY RICHARDSON.

Social Judgment

By GRAHAM WALLAS. Pp. 175. (George Allen & Unwin Ltd.) 5s. net.

It is good to have read this book, and that it should be read. Yet it is provoking as well as provocative. Graham Wallas seems to have been groping for something which he never finds; the needed "illumination," to use one of his favourite words, never comes. The book, also, is too full of erudition; professional teachers, as the author well knew, tend to be saprophytic, to live on writings of the dead; a man like Graham Wallas, who has contributed so much of the original to social thought, need not have leaned so heavily on Plato and Mill and the others for pointing his lessons, nor have burdened his journey with so much weight of quotation.

The heart of the book is the urgent need of the wisdom that leads to sound social judgment, and that this wisdom comes not from intellect or from emotion alone but from a wise mixture, compound rather, of the two. There is nothing new in all this, much less of the originality expected of Wallas, but touches of that insight appear by the way, as in the suggestion that "the Lancashire of the eighteenth-thirties (convinced that material progress, whatever the hardships by the way, was essential for human well-being) may help us to understand the Russian mentality of to-day" (p. 109), or, again, speaking of "the obscure processes of human motive which alone have made it possible to work" representative government—"And unless we can make those processes clear to ourselves, we may have lost the secret of their value before we cease exporting their forms" (p. 61). Perhaps the originality to be expected of the author would have been more manifested in the second part of the volume which he contemplated, unfortunately not completed when he died, which would have discussed "the institutions through which judgment influences social action"

In this first third of the twentieth century, there is not much risk of forgetting the place of "feeling" in thought or in action. Indeed, some might say that the danger is in a new obscurantism, in the world of thought, because intellect, despite all its magnificent

Public Administration

triumphs, gropes helplessly among the deeper problems of life and, indeed, too often of modest needs, in social conduct, including government, where, in democracies and in dictatorships, there is apt to be blind subservience to faith in this "ism" and that. Graham Wallas, one judges, considered that thinkers on society have failed more often by neglect of feeling than of intellect, but he realises the danger of too abundant regard for feeling, as in his chapter on "Religion and Judgment," but much more could, and needs to be, said on this subject.

Feeling alone is an unsafe guide because too often we know not whence it comes or whither it goes if we follow it, and human experience is full of its tragedies. Intellect alone is an unsound counsellor because of its limited range and its dominance by prevailing modes of thought. The author, in this his last book, has done well to stress the need of their co-operation; he would have done better still had he been able to show how that co-operation can be effected to good purpose, and we cannot but regret that he was not spared to complete the volume which he had in mind.

I. G. G.

Practical Ethics

By the Rt. Hon. Sir HERBERT SAMUEL, G.C.B., G.B.E., M.P., President of the British Institute of Philosophy. (The Home University Library.) 2s. 6d. net.

It is sufficiently unusual to find a man eminent in one profession to make it really remarkable that a prominent and experienced statesman should also be among the leaders of philosophic thought.

It is not unlikely that among those who have served under Sir Herbert Samuel whether during his years at the Home Office or at the Local Government Board (now the Ministry of Health) there are many who rank thought and theory higher than the practical work of administration and who will read the little book now under review with a sense of happy surprise and some relief in that long years of politics have not destroyed the philosophic mind. It may even be claimed that without the mental outlook which led Sir Herbert into politics, just this handbook could hardly have been written, for one is conscious of something more than theory, of a practical application which may add to or detract from the value of the book according to the predilections of the reader.

Obviously the limits of the series in which *Practical Ethics* appears would make the higher flights or deeper depths of philosophy unsuitable and indeed impossible and it is as a succinct re-statement of ethical principles briefly expounded in Sir Herbert's own easy and

Reviews

polished style and bringing together the sayings of a variety of thinkers on the subject that the book has its greatest value.

Each reader will probably regret that more has not been made of the special points in which he is most interested, and comparison with Bergson (who is frequently quoted) would no doubt be unfair. Nevertheless, our writer challenges it in the statement three times repeated that "Morals are not static" without delaying long to follow up this fascinating discovery. Bergson, who made it so specially his own in "Evolution Creatrice," has gone further in "Les deux sources de la morale et de la religion," and finds that justice too is progressive, and it is the one-time Home Secretary and creator of the Children's Charter who says, in considering how far the freedom of the will is limited by causation: "Experience shows us that if a nation gives to its children a good general education and a sound moral training and secures to its adults a regular livelihood in comfortable circumstances, fewer individuals in that nation will choose to commit crimes than if the conditions were otherwise."

But it is in the estimate of the value of intuition or instinct that Sir Herbert seems to differ from Bergson, for whilst the latter may be said to give first place to intuition, the statesman almost inevitably considers that instinct must be modified by reason. Professor Joad is probably interpreting the mind of Bergson when he says in his recent "Return to Philosophy," "When reason has done her utmost the mind may make a leap to the exercise of a new activity beyond reason." The idea is no doubt the same as in the famous saying of Pascal: "Le cœur a ses raisons que la raison ne connaît pas." Sir Herbert Samuel, in a fine passage in the chapter on social ethics, again makes a strong case for balance, "To find what is the right proportion in all the infinite variety of occasions that present themselves is the daily problem of the society and the individual, of citizen and State."

The little book itself is so manageable both in size and price that it is hardly necessary to quote from it, but the treatment of the ever fascinating central problem of what is good is so masterly (within the narrow limit of space available) that it deserves special mention. The relative claims of motive and consequence as the criterion of right action are fairly dealt with, indeed a slightly less dispassionate handling might have made it more living and less coldly formal. Nevertheless, the passionate advocacy of motive as the test which Browning so eloquently put forward in his "Statue and the Bust" would hardly be suitable for a handbook on ethics. The passage which sums up the theory is, however, sufficiently in point to be quoted in full. It will be remembered that the two lovers refrained

Public Administration

from taking action day by day through cowardice and lethargy, which increased as time went on, and Browning ends:—

“ Let a man contend to the uttermost
For his life's set prize, be it what it will.
The counter our lovers staked was lost
As surely as if it were lawful coin,
And the sin I impute to each frustrate ghost
Is the unlit lamp and the ungirt loin
Though the end in sight was a vice I say.”

A Judge would doubtless take a different view, and so, clearly, does Sir Herbert Samuel.

It should be clear from what has been said that this little book is full of good things. It also gives practical help to the student who is entering upon the fascinating study of the problems discussed and to those (all too few in number) who desire to “ learn how to live.” Here is one sentence among many which might well be used to conclude—
“ To decide from day to day and from generation to generation what particular aims are good, and then to act so as best to attain them—the science and art of living are just that and nothing else.”

Z. L. P.

Training in the British Public Service

By HARVEY WALKER, Ph.D. Pp. 213. (McGraw-Hill. 1935.)

PROFESSOR HARVEY WALKER, having spent a year among us taking notes, has now published the results of his exploration. Those of us who had the pleasure of knowing him while he was so engaged, will open this book with interest and a certain apprehension. What will he say about us? Can British practice, in the matter of training its public servants, stand up to the probing of an acute, if slightly academic, investigator from another country? Have we any idea at all which can be taken down and used in evidence, either against or for us? Or do things just happen?

Now it is quite clear that in this matter of post-entry training the Civil Service has no simple central theory at all. Whether we should be better off with than without one is another and a difficult question. It is purely a departmental responsibility, and each Department does what it thinks necessary, in its own way. In the Local Government Service its much more professional character has brought with it the regulating and unifying influence of the various professional organisations: in consequence there is a fairly high degree of training “ for the job,” within the professional field, systematised and co-ordinated by those organisations. Outside this field there seems to be

Reviews

even less in the way of systematic training than there is in the Civil Service, except in so far as the influence of Nalgo has made itself felt. While the Civil Service, from this point of view, seems to offer but one more example of the incorrigible individualism and empiricism of the Englishman. So Professor Walker had no easy task. This makes his study the more valuable.

The greater part of the book is taken up with a very full description of the ways in which Civil Servants in their various departments and grades are chosen for their duties, are trained, or learn, to perform them, and qualify themselves for whatever career is open to them. It is a mine of information not otherwise accessible: it should be of great value to those who, whether officially or otherwise, are concerned with the training of the new entrant into the public service, and want to know how other departments than their own approach the problem. Professor Walker's industry and thoroughness in this part of his task call for high praise, which we of the Institute should be the first to bestow.

The more intriguing part of the book is however the final chapter in which he sets out his conclusions. His point of view may be summed up in the propositions, first, that some definite form of training is desirable for every grade—except those near the top—and for every member of that grade; second, that training should be directed both to the performance of the duties of the grade and, at a later stage, to qualify for advancement to a higher grade; and third, that it will be, in general, better given in some form of class tuition than by experience and practice. He concludes, it is true, with a disclaimer that these ideas are not dogmas but hypotheses to be tested: that what he offers is not a tried and proved doctrine but a pioneer study in systematised administration. The bias of his mind is however not to be mistaken.

Now we may well admit that there is plenty of room for improvement; that some departments are much behind others even in dealing with the common service classes or other comparable bodies of men and women; that a more acute consciousness of the importance of training in building up sound technique, efficient performance, and mental alertness would do us no harm; and still feel a doubt whether Professor Walker has found the complete and perfect solution. He is impressed with the contrast between the immense care and thought that are given to the systematic training of both officers and men in the defence services, and the apparent indifference to it on the civilian side. After all, however, there is a difference between the physical and moral training that is primarily called for in the one case and the intellectual training primarily called for in the other. Different standards must be applied to those who are, and to those

Public Administration

who are not, called upon to act, as a body, under discipline in the military sense.

And again the distinction between instruction and training is more important than Professor Walker seems to realise. Instruction can readily be systematised, and, though some Departments afford admirable examples of it, it may well be that more definite and careful arrangements than at present exist would yield a return in quicker progress and more extensive knowledge. But training is another matter. Mental alertness, soundness of judgment, clearness of thought, come with experience associated with individual effort. They can be cultivated by opportunities for their exercise, but they cannot be created. It is in this, rather than in the provision of lectures and classes, that some of us see the main line of progress: and it calls for just that variety of treatment, in the varying conditions and needs of the different Departments, which Professor Walker seems to regret. There is more in "learning by doing" than he will admit.

This much having been said, a warm appreciation of the service rendered by the author of this investigation is due to him. Apart from the data which he has collected, we may be grateful for the attention which he calls to some of our weaker points. His criticism of the administrative class, though over-generalised and somewhat overstated, contains an element of truth which those responsible for their careers would do well to bear in mind. How wide should be the compulsory training of all clerical officers in the work and organisation of the Civil Service as a whole, outside the particular duties which they will have to perform, is a matter of opinion. Some would think that Dr. Walker's ideas on this point are impracticably large. Few, however, would deny that it is desirable to stimulate and direct in the budding clerical officer some interest in the wider relations and reactions of his work. If it is true that "in many of these departments new clerks are simply assigned to a vacancy and told to get on with the work. Casual assistance from colleagues, many of whom are not qualified to give instruction, is all that is given," we must admit that perfection measured by the most enlightened modern standards has not been reached, and that there is at any rate room for some levelling up. Perhaps, too, in leaving so much to the initiative and effort of the individual we have done less than we might with advantage have done, and it may be that, with more conscious attention to training, early promise would more often mature in later achievement. The work on these lines in some Departments, which Dr. Walker describes, raises the question whether it would not be an advantage if others did the same: the differences are certainly striking. He is right too in the stress which

Reviews

he lays on the need for building up means of resistance to the narrowing and engrooving tendency of much official work—to the “deadly opiate of departmental tradition.”

The subject is of great importance, and we may well support his plea for more experiment. For the consequences of neglect, though slow to declare themselves, are none the less certain. We build for another generation, not for our own, and in so far as academic methods may be appropriate—and no one would rule them out always and everywhere—some valuable advice as to the conditions essential to their successful use may be found in these pages.

H. N. B.

Better Government Personnel

Report of the (U.S.A.) Commission of Inquiry on Public Service Personnel.

THIS book contains the main report of a commission appointed by the Social Science Research Council, with the approval of President Roosevelt, “to examine the broad problems of public personnel within the United States, to outline a program for future action, and to present its findings and recommendations to the American people early in 1935.” It begins by exposing American fallacies about the public service—most of them associated with the general conception of the spoils system—and then works out, all too sketchily, a programme for a “career-service,” based mainly, though not avowedly, on the British model. There is a sound but rather slight discussion of the dangers of “bureaucracy”: the word is analysed according to two of its many senses, first, “a complicated organisation so snarled in red tape and bound in tradition that it cannot deal in a common-sense way even with the smallest problems,” and secondly, “a system of governmental functioning in which, as a matter of course, the politically irresponsible department and bureau staffs, rather than the elected representatives of the people, determine public policy.” In a rather disconnected chapter headed “Minor problems,” one finds that 1935 would be an opportune time to end the spoils system in the American Post Office: the present temporary postmasters are approximately evenly divided as between the two political parties, and if they were all given permanent appointments, the long struggle would end with honours easy. The appendices contain much useful information, not elsewhere available, about the numbers and pay of the American public service.

From the point of view of the British reader it is a rather disappointing book; but it was not after all designed for the British public but rather to “get across” certain broad ideas to the American nation. It is to be hoped that it will succeed.

W. D. S.

Public Administration

BOOK NOTES

Theory and Practice

The Growth of Philosophic Radicalism. By ELIE HALÉVY, translated by MARY MORRIS, Preface by A. D. LINDSAY. (Faber & Faber Ltd.) Cheap edition, 12s. 6d. net.

In the last issue of this Journal A. L. Dakyns described this and two other books as "dangerous reading, because they tempt one to attribute to Bentham ideas which his associates and followers have derived from other sources."

What Mr. Dakyns is up against is "a tendency to treat the reforms which Bentham initiated as mainly negative in character, consisting in the removal of harmful restraints and inherited abuse."

It is true that this book is more concerned with Benthamism than with Bentham, and it may be true that each of the other books referred to merit these strictures. In his enthusiasm for the Bentham text, surely Mr. Dakyns has allowed a general statement to become more sweeping than is really justified. Elie Halévy is really much too great a scholar to fall into the trap suggested.

The interest of this book—as the review published in the October, 1929, issue of this Journal endeavoured to show—does not lie, however, in its brief—though adequate—analysis of the reforms which derived their inspiration from Bentham or his followers, but in its acute analysis of the fundamental assumptions on which these reforms rested, and of the circumstances which caused the assumptions favourable to positive reforms to alternate in public favour with those supporting a negative policy. It is philosophic history at its best.

A re-examination of the book—necessitated by the arrival of this cheap edition—has strengthened the views expressed in 1929.

This is a book which should not merely be recommended, but strongly recommended.

A. C. S.

The New Machiavelli

Political Power: Its Composition and Incidence. By Charles E. Merriam, Professor of Political Science in the University of Chicago. 8vo., pp. vii + 331. (London: McGraw-Hill Publishing Co. Ltd.) 12s. 6d. net.

HERE is a book which anyone should find of deep interest whether he is a professional student of subjects such as politics and administration or whether he is merely concerned to understand the forces by which his life is controlled. In it Professor Merriam sets out to describe and analyse the nature of political power and to develop views which he has formed on the subject of government after many years of reading, reflection, observation and practical experience.

In the present juncture of the world's affairs few will be found to quarrel with the emphasis which he places upon the importance of a better understanding of the composition and incidence of political power. There is, he says "no task more urgent than the understanding and utilization of a force whose mastery may mean light or darkness for individuals and civilization."

He accordingly subjects the concept to a searching analysis asking how political power arises and of what situations it is born, what are the main types of personality which the power problem demands, what are the relations between the various groups yielding power, by what devices do wielders of power succeed in retaining their ascendancy and how does political power rise and decay? In grappling with questions such as these, Professor Merriam has sought assistance from history and economics and also from the newer doctrines of anthropology, sociology, psychology and psychiatry. His discussion throughout is balanced, objective and stimulating. There is naturally much in the book which is controversial. He remarks for instance in discussing the need for planning and leader-

Book Notes

ship that "in Government as in industry it is important to have not only production, but also salesmanship, for the goods are useless unless they are known to be good The general advantages of government, the specific benefits derived from it, and the special relation of the existing personnel of rulers must all be made clear to the community by an unending process of adult education" This is a view which is slow to gain acceptance in this country but in Professor Merriam's context it assumes an importance which it is impossible to ignore. The urgent need for a better understanding of the functions of government by the general public is indeed one of the topics again stressed in the concluding survey of the emerging trends of authority, in which it is related to the new instrumentation of the power process demanding new techniques of social control. Professor Merriam does not, however, fail to point to the dangers of the propaganda weapon; merely one of the irresponsible forces which threaten the security of organised social life. It would be unfair to attempt to summarise his argument in a limited space but, shortly stated, his conclusion is that in the critical times which lie ahead only the energy of creative intelligence can be relied upon "to reorganize and reconstruct new forms of political and social life adapted to modern social forces."

With this view few are likely to dissent but few will realise its momentous importance who have not troubled to undertake the task of reflecting upon the problems to whose elucidation Professor Merriam has devoted such careful thought and attention.

F. R. C.

Public Affairs

Public Affairs. By A. F. CHAPPELL, M.C., M.A. Demy 8vo., pp. 128. (University of London Press.) Cloth boards 1s. 10d.; limp cloth 1s. 8d.

A LITTLE introductory text-book for use in schools designed to acquaint children with the main features of the complex social organisation into which they are to emerge. Few subjects can be more difficult to treat in an elementary way and Mr. Chappell himself would probably not claim to have found the secret of making public administration popular in schools.

Much must obviously depend on the teacher but this little book should provide the necessary pegs on which he can elaborate his comments.

F. R. C.

History of Food Adulteration

A History of Food Adulteration and Analysis. By FREDERICK A. FILBY, M.Sc., Ph.D. Lond. 8vo., pp. 269. (Allen & Unwin, 1934.) 10s. net.

THE modern science of nutrition based on the discovery of the action of the vitamins and other accessory "protective" foods is of so recent a growth that the new perspective which it demands has not yet been adopted by the social historian. Until very recent times a scientific history of human feeding habits was indeed impossible simply because any adequate knowledge of the relationship between food and health was lacking. To-day this essential knowledge is being secured and there can be no doubt that it will have a marked influence upon historical accounts of past ages.

Dr. Filby's book although it makes an important and valuable contribution to the history of food is written from the standpoint of the analyst rather than from that of the dietician. It presents, however, a range of information which has not previously been gathered together and it is a very satisfactory example of the contribution which scientific history can make to the better understanding of the past. For Dr. Filby has not confined his researches to the 19th century, when the problem was at once more acute and better understood than ever

Public Administration

before, but he begins his account as soon as the earliest mediæval records will let him, in an age, therefore, when scientific description and analysis were unknown. He surveys in turn the record of the Grocers, the Bakers, the Brewers, the Vintners and the Distillers and concludes with a survey of the rise of analytical chemistry in its application to food analysis.

The later development of the subject is sketched in broad outline since, as the author observes, it can be followed in well-known works such as those of A. H. Hassall, an early-Victorian pioneer, and in the survey "Fifty Years of the Society of Public Analysts," published in 1933.

The administrative aspect of the subject is not specially treated but a valuable appendix gives a summary account of the Statute Law on the subject between A.D. 1266 and A.D. 1875. There is also a comprehensive bibliography.

F. R. C.

Collected Works of Carl Menger, Vols. I and II

Carl Menger. Collected Works. Vol. I, 8vo., pp. xxxii, xi + 286; Vol. II, 8vo., pp. xlviii + 285. (London School of Economics.) Each 10s. 6d. net.

THE London School of Economics continues to place all students of the evolution of economic theory under a deep debt of gratitude for making further additions to its excellent series of reproductions of important works in economics and political science which are now so scarce in their original form as to be virtually unobtainable.

With the completion of these two volumes half the task of republishing a collected edition of the works of Carl Menger is achieved. The two concluding volumes are promised for early publication.

Professor von Hayek has provided a sound and informative general introduction to the first volume which will be of the greatest value to the English student who is unlikely to be familiar with the academic position of economic studies in nineteenth-century Germany and Austria. In it he points out very clearly the importance of the contribution which Menger made to the theory of value and the significance of his attack upon the German Historical School headed by Schmoller. The present vitality of the Austrian school of economists is interestingly related to the work of its distinguished founder.

The first volume contains a reprint of the treatise "Grundsätze der Volkswirtschaftslehre" in which Menger first expressed his views on the theories of value, price, exchange and money. The volume forms the only completed portion of the general treatise on economic theory which Menger was able to conclude.

The second volume presents his second great work, the methodological treatise "Untersuchungen über die Methode der Socialwissenschaften und der Politischen Oekonomie insbesondere," a book which for the influence it exerted on European economic thought certainly deserves to become generally available for students in this country.

The fidelity of the reprint is guaranteed by the fact that they are photographic reproductions of original editions.

F. R. C.

Geschichte der Italienischen Presse

Geschichte der italienische Presse. Vol. 3. 1900-1935. By Dr. Adolf Dresler. Berlin and Munich. (R. Oldenburg.) Pp. xi + 183. Price 8m. 50pf.

THE first two parts of this work were noticed in PUBLIC ADMINISTRATION in October, 1934. In them the historical interest was paramount and it is hardly necessary to say that the present concluding volume will have a much more

Book Notes

vivid and practical appeal to English readers since it gives an account of the state of public opinion in Italy during the rise to power of the Fascist party, and the later methods by which that party now controls the press in Italy. The initial sections give a general picture of the development of Italian party politics in the first decade of the present century and contain an interesting account of Mussolini's early career culminating with his appointment as editor-in-chief of the socialist "Avanti." It is inevitable, despite Dr. Dresler's painstaking effort to present the subject in its proper historical perspective, that a large part of the interest of the work should arise from the dramatic story of Mussolini's personal achievement. This is attractively and sympathetically presented with frequent extracts from Mussolini's own writings.

Dr. Dresler has a notable achievement to his credit but it must also be recorded that he is silent on much that English readers would like to know. How effective, for instance, has been the Fascist control of the press in influencing the opinions of newspaper readers? What are the psychological reactions of a nation to a State press? Is it true, for instance, that Italians have largely lost interest in a series of organs apparently differing from each other but reproducing in practice with uniform monotony the unmistakable tones of "la voce del padrone"? Have newspaper circulations declined and what has been the effect on newspaper finance? These are matters of current politics and economics but they surely deserve some treatment in a history which is brought down to the year 1935.

F. R. C.

Germany in the XVIIIth Century

Germany in the XVIII Century: The Social Background of the Literary Revival. By W. H. Bruford. (Cambridge University Press.) Pp. 327+26. Price 15s. net.

THIS work, by the Professor of German at Edinburgh University, is in the very new tradition of the modern humanities. It is not merely a background to the study of literature. The relationship of life and literature is too intimate and organic for the former to be termed background.

This synthesis is arranged in four parts suggesting water-tight compartments, which the reader early discovers are inadequate. Part I, for instance, on "Political Structure and System of Government," contains two chapters the first on "Kleinstaaterie" and the second on "Benevolent Despotism." These two chapters between them provide a brief outline of the political history of central Europe which is too compressed to serve any useful purpose other than that of introducing something else. The political structure, etc., of Germany does not emerge as a thing of flesh, blood, and spirit until Parts II and III.

Part II on "The Old Order of Society—Nobility and Peasantry" is a genuine picture of life as it might have presented itself to an observant traveller. It is in fact very largely based on the diaries and letters of travellers. This section is so well done as to make criticism almost an impertinence. The method serves excellently well to achieve vividness and tone—we believe it is less serviceable in spotting the elements of change which for the practical man's history, are so important.

Part III is probably the best part of the book. It is headed "The New Order of Society—the Middle Class." In 140 pages the author contrives to convey a very lively picture of town life, its trade and economics, its government, architecture, town-planning, religion and education, and the rise of the professional classes. If space permitted one would be tempted to quote at length from these chapters—not merely because of their artistic interest, but also and probably mainly for the very practical reason that they contribute to the understanding of Germany to-day.

Public Administration

Part IV—In two chapters the author records the outstanding phenomena of the German literary revival and the relation of this to the phenomena already described. Assuredly this book, on a very important subject, makes most interesting reading.

A. C. S.

Administration of Justice in New York State

Report of the Commission on the Administration of Justice in New York State. Published by J. B. Lyon Co., Albany, N.Y., as a Legislative Document. Pp. 1016.

This Commission was created by legislation passed in 1931-33 "to investigate and collect facts relating to the present administration of justice in the state" and to present recommendations for its improvement. This volume contains the final report of the Commission, a preliminary report having been submitted to the Legislature in March, 1932.

The report contains matter of considerable interest to English students of comparative jurisprudence and, to a more limited extent, to students of Public Administration, coming as it does at a time when similar matters are being considered in this country. The matters under consideration by the Royal Commission on the Despatch of Business at Common Law, the Report of the Business of the Courts Committee, and the popular demand for cheaper and more speedy litigation, which are occupying the attention of law reformers in this country are akin to the subjects which are dealt with in the New York State Commission Report. The Commission state that "the law's delay is the most pressing problem with which we have dealt" and advocate substantial revisions to the present court machinery before consideration is given to the question whether an increase in judicial personnel is necessary. The Commission feel that great improvement in the administrative practices of the courts can be effected by the courts themselves, which led them to recommend the creation of a Judicial Council as an urgent and immediate need. They state that this should be a state-wide, continuously functioning, guiding, directory and supervisory body for the State's judicial system, and recommend for its composition five judges, two legislators, four lawyers from the judicial departments, and two citizens appointed by the Governor.

A Law Revision Committee is also advocated with a view to the scientific revision of statute law in the light of modern conditions and to act as a link between the courts and the legislature. This is of particular interest in view of the steps recently taken in this country, though the English Law Revision Committee is not confined to the consideration of statute law alone.

Though the above are the major points on which the Commission recommend far-reaching changes, there are many others on which amendments are advocated, which the limits of space forbids one to detail here.

N. V. R.

THE HISTORY OF TOWNS

The Civic History of the Town of Cavan. By TERENCE S. SMYTH. (Cavan: published by the Author.)

The Borough of Bury St. Edmund's: a Study in the Government and Development of a Monastic Town. By M. D. LOBEL. (Oxford University Press: Humphrey Milford.) 12s. 6d. net.

THERE is a wide gap between those whose point of view is in the present and those whose point of view is in the past. Readers of this Journal belong in the main to the former class; and they will be inclined to wish that the writers of books like these would try and come a little nearer to them. The writers may indeed reply fairly enough that it is no part of their business to be

Book Notes

troubled by this gap, and that it is only owing to the misfortune of having their books reviewed in a journal devoted to public administration that the point is raised at all. But some approach between the two sides would be desirable; and it seems opportune to raise the point at a time when lecturers all around are taking note of the centenary of the Municipal Corporations Act and of the report of the Royal Commission which preceded it. For what that Royal Commission did in effect was to stand in the present and look over the wall into the past, then lingering on. They did not like what they saw; and being outspoken gentlemen, and being (as was the fashion of the time) rather Whiggish and perhaps rather priggish in temperament, they allowed themselves some indignation over it.

The Commissioners would have rejoiced in an anecdote which Mr. Terence Smyth tells in his book. They knew from their researches into the constitution of English towns how exceedingly close the corporations of those times could be. But Ireland (as so often) could outdo Great Britain. To quote from the book, and explaining in passing that the chief officer of the town of Cavan was called (rather happily) a "Sovereign":—

"In the year 1722 two families, Clements and Nesbitt, obtained paramount influence in the Corporation and divided its patronage between them by a written compact which appeared in the Corporation books in the following terms:—

* * * * *

'Imprimis, That the said Clements and Nesbitt shall be sovereign, year about, of the said Corporation. Mr. Clements to be sovereign the next election, Midsummer, 1723, and Mr. Nesbitt the next year, and so successively, each in his turn.

'Secondly, That no person shall, on any pretences whatsoever, be admitted to his freedom of the said Corporation without the joint consent of the said Clements and Nesbitt, either personally present, or under their hands.' "

There is more in the same vein. When there should be vacancies among the burgesses, "then Mr. Clements shall first name the succeeding burgess and then Mr. Nesbitt successively, as they are to be sovereigns." Mr. Smyth adds that the compact was acted upon right up to the time when the Corporation was extinguished. This was in 1840, but it is evident from Mr. Smyth's interesting account of the government of the town that the local administration was not an active one. A report made in 1837 says:—

"The Town is neither lighted nor watched."

It adds (a more cheerful note):—

"and there are no local rates."

Towards the end even the number of officials appears to have thinned down. In the hey-day of the eighteenth century there were sovereigns, vice-sovereigns, portreeves (two of them at a time—Clements and Nesbitt), deputy portreeves, recorders, deputy recorders, town clerks, sergeants, constables, weighmasters, and attorneys. Anyone who doubts this can read in Mr. Terence Smyth's book the names of those who held these offices.

Miss Lobel's book, as the sub-title shows, deals in the main with mediæval history only. The erudition in the earlier part of the book is too concentrated to be agreeable to the ordinary reader: but it improves, and there is a good chapter on the struggle for municipal independence which, after all, is the main subject. The struggle in this case, as Miss Lobel points out, takes rather a special form and one adverse to the town. The secular lord against whom most towns were matched was apt to have weak moments: either through his loyalty

Public Administration

to Cross or Crown, or from misfortune, or because he wished to lead his life in his own way, he would need money and the town would get its chance. But the town here had no chance against the Abbey; and the money which would have purchased privileges and exemptions elsewhere went in lawyers' fees and fines for abortive disturbances. The abbots were not sympathetic, and it is interesting to note that when one of them, either from wisdom or strength of character, went some way to meet the requests of the town, the complaint was made on the part of his own people that his predecessor would not have done it for five hundred marks of silver. Such is the reward of moderation!

Human nature, however, being like this, there was no provision for ordered change in a system under which the appeal was always to custom, interpreted by lawyers. Viewed from this angle, Miss Lobel's book would—rather paradoxically—form a useful introduction to a study of Parliamentary government.

E. H. R.

THE BRITISH DOMINIONS' ECONOMIC JOURNALS

The South African Journal of Economics, Volume II, No. 3, September, 1934. 6s. net.

THE September issue opens with a reprint of the presidential address by Mr. C. W. Pearsall, delivered at the General Meeting of the Economic Society of South Africa on the 9th August last, dealing with the change which has come over the economic position of South Africa owing to the boom in the value of gold. He indicates the various factors which indicate an improvement in the economic situation of the country and proceeds to examine the question whether those factors, when examined more closely, show an improvement in general prosperity apart from the obvious prosperity of the gold-mining industry. He considers also the factors operating in the world in general which tend towards the re-establishment of the gold standard and concludes that the tide is setting towards international stability, which is the first step towards the restoration of the gold standard. This is, of course, a matter in which South Africa must naturally take the greatest interest.

Of very great interest from the point of view of the administrator is an article on "Safety for Savings," by Professor E. D. Arndt. He ranges over the wide field of organisations in which the public can invest their savings, and his general conclusion is that in South Africa the condition of affairs is chaotic and the investor has not as much protection for his savings as he ought to have. The real interest of the paper, however, lies in his detailed analysis of particular opportunities for investment rather than in his general conclusion. His attitude is that there should be much more stringent supervision of companies, banks, building societies, savings banks, and other similar institutions, but he does not seem to have given sufficient consideration to the question where the line should be drawn between a policy which gives reasonable protection to the investor and a policy which would involve the State in responsibility for the solvency and the rectitude of business enterprises. With regard to companies, for example, he says that "according to the Act, the Registrar of Companies would appear to be no more than a routine registering robot, who has no discretion and can form no judgment on what he registers so long as the documents formally comply with the letter of the law." What Professor Arndt does not say, however, is how he proposes that the unfortunate Registrar of Companies should obtain the necessary information on which to exercise his judgment as to the type of company which should be registered; nor what his position would be if a company which he had approved should afterwards be discovered to be fraudulent.

Book Notes

Miss Sheila Van Der Horst contributes an article upon poor-law legislation and Mr. H. Sonnabend examines the use of demographic samples in the study of backward and primitive populations, where accurate information about the population as a whole is impossible to obtain. He shows how, by taking samples, it is possible with some approach to accuracy to determine the increase or decrease in numbers of a backward population and to obtain other important results in the realm of vital statistics.

Professor S. H. Frankel contributes a full-blooded denunciation of proposals for price and marketing control in connection with the South African agricultural products. He deals, of course, with the problem as it arises in a country which exports agricultural produce and not from the point of view which is of more vital importance to us, that of a country which is an importer. Mr. W. W. Anderson also contributes some criticisms upon an article on the same subject which appeared in the June number of the Journal.

As usual, the issue contains a number of reviews of recent economic books and some useful notes on official union and overseas statistics.

J. K.

The South African Journal of Economics, Volume II, No. 4, December, 1934. 6s. net.

ONE of the most interesting features of every number of this Journal is the attention given to racial problems, upon the treatment of which so much of the future of South Africa depends. To the solution of that problem the value of the contribution made by students whose researches are here summarised can hardly be overestimated. This issue contains a typical contribution in the shape of the first instalment of a short study by Mr. H. M. Robertson, entitled "150 Years of Economic Contact Between Black and White." He says that space will allow him to do no more than to indicate in a general way some of the main factors in the history of the economic contact of the two races, but there can be little doubt about the value of even a short study of this kind in indicating, by reference to the past, the probable results of any particular line of policy.

He shows how the policy of the Dutch East India Company, which was to limit as much as possible contact with the native races, gradually broke down because the Dutch farmers spread further and further into the interior, and the natives, on their side, by their habit of trekking, made contact inevitable. He traces the results of the various changes of policy and their effect on the inevitable tendency of the black to be taken into the service of the white, and traces also the effect of contact between the races upon different tribes and upon native life generally.

Professor Lestrade's paper on "Some Aspects of the Economic Life of the South African Bantu" is an examination of the native system of land tenure and the conditions under which other forms of property are held and exchanged. He shows that, though land, under the native system, is not a commodity to be bought and sold, it is not held in common, but is the possession of the family groups and, inside them, of the various houses constituting the groups. Nevertheless, every family has assigned to it without question and without payment the land which it needs. Land once assigned remains at the disposal of the group or house unless it is forfeited or abandoned. Pasture and hunting land are held in common. Cattle, like land, are not ordinary commodities. They are the possessions of the group, the house, or the individual, but their exchange is governed by the customs of which Professor Lestrade gives an illuminating outline. He indicates, without pursuing the matter in detail, that here lies one explanation of the resentment and bewilderment of the native at the white man's conception of land and cattle as commodities which can be bought and

Public Administration

sold, and at the discovery that, unless he can purchase it, no man—according to white standards—has any right to the possession of land which is his only means of livelihood.

Turning from the racial problem we find an examination by Professor W. H. Hutt into the best size for industrial enterprises, not from the point of view of the owners of those enterprises—which is the usual angle from which the problem is approached—but from the point of view of the community as a whole. He shows that the best solution from the point of view of the entrepreneur may be widely different from the best solution from the point of view of the community.

Mr. A. P. van der Post contributes a paper on the combination of the factors of production in agriculture, and there are the usual reviews, notes and statistics.

J. K.

The Journal of the Economic Society of Australia and New Zealand, Volume X, No. 19, December, 1934.

IN this issue Mr. A. G. B. Fisher contributes an interesting and comprehensive paper upon investment policy. He sets out to examine, first, what sort of investment it is desirable to encourage; second, whether the existing capital market organisation is likely to provide an appropriate means of stimulating the flow of capital along the right channels; and, third, if not, whether it is possible to create supplementary machinery which will do the necessary work more efficiently. He makes the point that although the answer to the first question seems self-evident, namely, that the kinds of investment to encourage are those connected with the production of things which people with rising real incomes will wish to buy, yet there is little evidence that the implications of this answer are really grasped or that any effective steps are taken to guide investment in this direction. He shows that there are many forces working against the adoption of what seems to be the obviously right policy and he points out that, even in England, market conditions are not satisfactory from this point of view. He quotes the views of the Macmillan Committee on the subject and mentions the organisations—such as the Charterhouse Industrial Development Company—which have recently been set up in this country to encourage this particular kind of investment. He suggests that similar institutions in Australia and New Zealand could make a valuable contribution to the prosperity of those Dominions. He touches also upon the possibility of State assistance.

Chamberlin's "Theory of Monopolistic Competition" and Robinson's "Economics of Imperfect Competition" have given rise to a great deal of discussion in economic circles. To this issue, Mr. Ronald Walker, of the University of Sydney, contributes a short examination of the theories of competition. He quotes Chamberlin as saying that "the theory of monopolistic competition has not been carried . . . beyond its beginnings," but adds that in this note he is trying to show the theoretical interest and practical importance of these beginnings and to reveal the inadequacy of theory which treats monopoly and competition as a simple contrast. He adds a bibliographical note suggesting the lines on which a student of the theory might arrange his reading.

The Australian tariff is a matter of concern not only to Australians, but to traders in this country and abroad also, and any examination of the effect of changes in tariff levels in Australia must be of wide interest. Mr. J. G. Crawford has attempted an extremely difficult task in constructing an index of Australian tariff levels since federation. He explains that he has taken into account broadly all those items of importation into Australia of which there are continuous records since 1902, and that though these items do not, naturally, cover the whole of Australian trade, yet no important group is unrepresented. As

Book Notes

regards rates, he has taken into account the general tariff and preferential tariff and has allowed for the effect of imports covered by departmental bye-law. It is on prices that, as he himself explains, he has made the assumption which is most likely to affect the usefulness of his results, since he has ignored the effect of price changes upon the incidence of specific duties. In a period which has seen such enormous changes in price as the last thirty years this is clearly serious, but Mr. Crawford gives at the end of his article some indication of the margin of error which his method introduces.

Another doubtful point arises in the matter of weighting. The system followed has been to weight the results by reference to the Australian import figures for 1922-23. The error introduced by taking the imports of one country as a basis instead of the trade of the world as a whole is not so serious when the object is to compare tariff levels of that country over a series of years as it would be if the object were to compare tariff levels of different countries, and from the point of view of practicability one must agree that it was worth while to face the inevitable inaccuracy of the method rather than to abandon the whole investigation because of the difficulty of obtaining satisfactory data of the total world trade in the articles concerned.

As might have been expected, the results show spectacular rises in tariff levels in Australia, particularly since the War, in spite of the fact that the method of choosing as the basis of the investigation years in which prices were at their highest has been to underestimate rather than overestimate the rise in tariffs. There can be no doubt as to the value of the tables in spite of their weaknesses, which are clearly recognised by the author.

There are articles on trade unionism in Australia, upon the establishment of central banking in New Zealand, and upon the report of the Commonwealth Grants Commission and the report on company promotion methods in New Zealand.

A large part of the issue is, as usual, devoted to notes and reviews.

J. K.

MISCELLANEOUS

Hours of Work in Postal Services

By the INTERNATIONAL LABOUR OFFICE, Geneva. (P. S. King & Son, Ltd.)

THIS booklet is one of a series of reports about hours of work in industry prepared in connection with the Washington Convention. It deals not only with hours of work, but also with rest-periods, overtime and annual leave, and covers most of the chief European countries except Russia. No attempt is made to give any meretricious glamour to a rather dull subject; but the booklet presents the facts clearly and with scrupulous accuracy, not trying to make them fit into any particular theory or ideal. The general conclusion that may be drawn from it is that the variation in hours and conditions of work throughout the various postal services in Europe is surprisingly small.

W. D. S.

A Bibliography of Civil Service and Personnel Administration

By Miss SARAH GREER, Librarian, (U.S.A.) Institute of Public Administration. (McGraw-Hill Book Company Inc.)

MISS GREER'S bibliography of 127 pages is less formidable than at first sight appears. Many of the entries turn out on inspection to be articles from Mr. Leonard White's "The Civil Service in the Modern State" or from this Journal. It is hard to discover on what principles the articles from this Journal are

Public Administration

chosen: one searches in vain for factual studies, such as Mr. W. W. Marsh's "Management of Office Staffs," or Miss Dhonau's work on the German public service. There is no mention of Sir John Anderson, nor of Mr. Brownlow's illuminating article on the City Manager. Except for the Hadow Report and the reports of its discussion at the last Summer Conference, there is no mention of any books or articles on British local government. The various commissions and committees on the British Civil Service are properly set out, but if a short title based on the Chairman's name, for example, the Tomlin Commission, were given in parenthesis, it would have been easier to recognise them.

W. D. S.

Year Book of Education, 1935

The Year Book of Education, 1935. Evans Brothers. 35s.

"THE Year Book of Education" is already recognised as an indispensable *vade mecum* in the educational administrator's office and the teacher's library. Between its covers is packed a wealth of information so complete as to be almost inexhaustible; and the scientific method of presentation does much to deprive the book of the more unattractive features of Year Book compilations. Lord Eustace Percy's refusal to keep to hard-worn practice in this direction invests "The Year Book of Education" with an individuality shared by few of its contemporaries; and the knowledge that every contributor has been selected because he is an expert in a particular field of enquiry at once inspires complete confidence in the accuracy of the information presented to readers.

It was the original intention of its founder, Sir Robert Evans, and its first editor-in-chief, Lord Eustace Percy, that "The Year Book of Education" should make not only a reliable survey of the educational systems of the world, but in particular should become the forum for the discussion of educational problems peculiar to the British Empire and a record of research directed to the solution of these problems. This aim is now being fulfilled; and a new editorial board has come into existence consisting of Lord Eustace Percy, Professor Percy Nunn, and Professor Dover Wilson. It will at once be seen that an intimate connection has been made with the University of London Institute of Education; and the result of such an arrangement is clearly to be seen in some of the new features of the book, notably in Sections II, III and VIII of Part II. There, in concise and scholarly form, are presented problems of educational research connected with the Psychology of Child Development, the Testing of Intelligence, and the Comparative Study of Colonial Education. From the point of view of teachers these sections are among the most valuable in the volume.

It was a happy thought to include in the 1935 edition matter relating to Indian education, for the future of that vast country is now a question of practical politics and one which engages world-wide attention. It is an example of the way in which "The Year Book of Education" puts "topical" events in the forefront of educational interest; and that by itself makes it such a valuable educational asset.

W. J. BEES.

